Culmer, Jonella

From: Burns, Curtis Bob
Sent: Thursday, December 17, 2009 3:50 PM
To: Burns, Curtis (Bob)
Subject: The Blog Report 12/1709

The Blog Report 12/17/09



What Is Home Land Security And When Did They Come Up With It

Correcting social misinformation

Wave To The Trollkiller

The Wandering Aramean: Congressional hearings about the TSA SOP debacle

Confirmed: Chuck Schumer is a first-class jerk

How would the airport security check for marijuana?

Uncle Sam Protects You

Five questions for DHS about the TSA Operations Manual Release

TSA Related Tweets on Twitter? Click → HERE

TSA Twitter Tag Cloud on Crowd Eye → HERE

This e-mail will highlight various topics from blogs, message boards and more related to TSA. Please pay close attention to comments in the blog posts as sometimes they are more valuable and interesting than the post itself. Stories are shared so we can all be aware of the public perception of TSA and its policies, not necessarily because I agree or disagree with them.

Culmer, Jonella

From: Burns, Curtis Bob
Sent: Tuesday, October 06, 2009 10:08 AM
To: Burns, Curtis (Bob)
Subject: The Blog Report: 10/6

The Blog Report 10/6

New technology will detect chemical weapons in seconds
CrunchGear - http://www.crunchgear.com/

Will Obama Keep His Promise to Federal Whistleblowers?
FAA Whistleblower - http://faa-whistleblower.blogspot.com/

Guest Bloggers
Trollkiller's World - http://www.rebelmodel.com/tsa/

TSA Says Sukkot Items OK On Planes
Religion Clause - http://religionclause.blogspot.com/

TSA Related Tweets on Twitter? Click → HERE

TSA Twitter Tag Cloud on Crowd Eye → HERE

This e-mail will highlight various topics from blogs, message boards and more related to TSA. Please pay close attention to comments in the blog posts as sometimes they are more valuable and interesting than the post itself.

Curtis "Bob" Burns TSA Blogger
DHS/TSA Office of Strategic Communications & Public Affairs
571-227-(b) (6) (O) (b) (6) (BB)

Trollkiller, I feel like you're cheating on us by posting outside of the TSA Blog. And to think, I improved my neckwear for you... It is good to see you on the DHS Leadership Journal though.

I understand you disagree with some of the answers we've given in the past, and that's fine. The blog is all about furthering dialogue, but for those not familiar with our past conversations, here are some links to what we've said on our blog about the topics you have brought up.

- You can find our Chief Counsel's explanation of ID Verification **HERE**. The secure flight law you refer to is for secure flight only. It does not relate to checkpoint screening.

- Read here to see our stance on the security of luggage after it leaves the TSA: **See Question #5**

- We've screened enough metal to know that the new badges will set off the metal detectors. ☺ We implemented procedures prior to the issuing of badges to address the alarms.

- A note about Trollkiller: He is a very vocal critic and supporter of the TSA. I wish all of our readers and commenters could be more like him. Unlike most of our commenters, Trollkiller will agree with us at times while most are dead-set to disagree about everything. You can count on TK to be honest and intelligent and he's a huge asset to any blog. And he has improved my neckwear and created a T-shirt in my honor.

Thank You,

Bob Burns

TSA EoS Blog Team

Culmer, Jonella

From: Burns, Curtis Bob
Sent: Monday, December 29, 2008 5:25 PM
To: Burns, Curtis (Bob); (b) (6) (b) (6) (b) (6) ; Culmer, Jonella; Davis, Ann (b) (6) (b) (6) Gaches, Lauren; (b) (6) Harmon, Carrie; (b) (6) Koshetz, Sari; (b) (6) McCauley, Andrea; Melendez, Nico; (b) (6) (b) (6) Payne, Sterling; (b) (6) (b) (6) Schara, Caitlin; Simons, Michael; Soule, Greg; (b) (6)
Subject: Web/Blog Hot Topics 12/27 - 12-29

Hot Topics for 12/27 – 12/29

Gunpowder on Airplane

1. http://wildbee.org/2008/12/09/carrying-gunpowder-through-airport-security/ -Passenger gets through San Fran checkpoint with fake boarding pass and black powder
2. http://www.schneier.com/blog/archives/2008/12/gunpowder_is_ok.html - Schneier
3. http://sunbeltblog.blogspot.com/2008/12/more-tsa-silliness.html
4. http://snarkybytes.com/?p=1917
5. http://www.thedailyparker.com/PermaLink,guid,67137407-ff57-4098-a72d-5d860570994c.aspx

Watch List

1. http://dreamacttexas.blogspot.com/2008/12/list.html
2. http://www.motherjones.com/kevin-drum/2008/12/land_of_the_free.html

Locks

1. http://www.satnavguru.com/travel-leisure/know-your-bag/
2. http://jadxia.livejournal.com/347820.html

Cargo

1. http://www.lewrockwell.com/blog/lewrw/archives/024614.html

Electronic Boarding pass at MSP

1. http://www.flyertalk.com/forum/northwest-worldperks/903843-e-boarding-pass-msp.html - Flyertalk Community Has Mixed Reactions to EBP at MSP

LASP

1. http://forums.jetcareers.com/general-topics/79706-large-aircraft-security-program.html

Miscellaneous

1. http://www.lewrockwell.com/blog/lewrw/archives/024612.html - Passenger thinks he got lighters past security...
2. http://www.worldhum.com/features/travel-stories/smuggling-cinnamon-rolls-20081229/ - Smuggling Cinnamon Rolls
3. http://thefreedomfellowship.blogspot.com/2008/12/tsa-refuse-to-identify-themselves.html - YouTube Video - TSA Inspectors Refuse to Identify Themselves
4. http://whiteflashdiamonds.wordpress.com/2008/12/29/jewelry-is-most-common-item-reported-missing-or-stolen-from-hopkins/ - Channel 3 News Investigates Thefts at Hopkins

5. http://periscopedepth.wordpress.com/2008/12/29/christmas-is-for-children/ - Passenger Annoyed by Simplify Video
6. http://f-b--i.com/homeland-security/tsa-three-simple-steps - Features Ad Council Clip
7. http://www.free-map.org/top-10-secondary-screening-tips-for-summer-travel.html# - Tips for Passenger Who Receive Secondary Screening
8. http://czechmatediary.com/2008/12/28/how-to-fly-with-small-kids/ - Traveling w/ Children
9. http://www.rebelmodel.com/tsa/2008/12/new-laws-new-news-and-some-housekeeping.html - Trollkiller Blogs About "Illegal" ID Checks
10. http://www.editrix.us/2008/12/if-youre-reading-this-uncle-sam-please-dont-put-me-on-a-watch-list.html - Grammar Police
11. http://scambledeggconomics.com/2008/12/28/the-transportation-stimulus-act/ - TSA is Govt. Welfare Program
12. http://seekateknit.blogspot.com/2008/12/great-tsa.html - Knitting Needles
13. http://www.hawkeyebowlgame.com/2008/12/28/outback-bowl-charters-flights-take-off/ - Extra Security on Hand for Outback Bowl. Go Hawkeyes!!!

What are they saying about TSA on Twitter? Click → **HERE**

This will be a new daily e-mail I'll send to OSCPA highlighting hot topics and items with the potential to ignite. This simply helps me determine what the climate is like out in the digital world and gives me a heads up before we get clobbered on our blog. Lynn & I thought some of you could use it as well.

Curtis "Bob" Burns
TSA Office of Strategic Communications & Public Affairs
Evolution of Security Blog / Got Feedback?
571-227-(b) (6) (O) (b) (6) (BB)

Culmer, Jonella

From: Burns, Curtis Bob
Sent: Sunday, December 06, 2009 7:42 PM
To: (b) (6); Lee, Kristin; (b) (6)
Subject: Fw: SSI shitstorm warning

Importance: High

(b) (5) I'm not in front of a computer right now so I can't look at it. (b) (5). I'll take a look when I get home.

Sent Using BlackBerry
Curtis "Bob" Burns
OSCPA - TSA Blogger
(b) (6)

From: (b) (6)
To: Curtis Bob Burns (b) (6)
Sent: Sun Dec 06 16:28:13 2009
Subject: SSI shitstorm warning

Sorry to crap all over your weekend but the management SOP has been released and the redacted parts are available for all to see. I wanted to give you a heads up so you are not walking in blind on Monday morning.

http://www.rebelmodel.com/tsa/

We won't be getting a Christmas present like this again, will we?

Trollkiller

Culmer, Jonella

From: Burns, Curtis Bob
Sent: Monday, August 17, 2009 11:04 AM
To: (b) (6)
Subject: RE: Happy Friday and other stuff.

(b) (6)

The interview is on. And I didn't even have to take your advice. ☺ I'll start working on the questions and let you know when I'm almost done. I know a little bit about everything at TSA and am and expert on nothing other than social media, so I'll have to have my answers vetted by the various program offices to ensure that I'm not throwing them under the bus with inaccurate information. So, I'll try to rush it through the program offices, but sometimes no matter how hard you try, things move at the speed of the Government.

I also checked to see if we could get you in the imaging room at a location in Fla. In order to go forward with that you need to be credentialed media affiliated with a local or national media outlet. The following suggestion was given by my higher-ups, **"He can see the images online and look at our video that will go up soon to see what the room looks like. If we open it up to one blogger we would have to do it for all and that is not possible."**

(b) (6)

Thanks!

Curtis "Bob" Burns TSA Blogger
DHS/TSA Office of Strategic Communications & Public Affairs
571-227(b) (6)(O)(b) (6) (BB)

From: (b) (6)
Sent: Friday, August 14, 2009 12:13 PM
To: Curtis Bob Burns
Subject: Happy Friday and other stuff.

Ah the weekend. I don't know about you but this has been a long week. Thankfully it is Friday and that is Chinese food night. yummy

I was wondering if the bosses have shaken their Magic 8-ball and given their answer for the interview?

If it helps you can tell them I will run a story either way and it would be in their best interest PR-wise to let you answer my benign questions rather than have me write a biting article about how they are blocking you from answering my benign questions. (Don't worry I will put all the blame on them.)

Just be glad you are not the PR guy for the health care bills. :-D

Have a great weekend.

Trollkiller

Culmer, Jonella

From: (b) (6)
Sent: Monday, December 07, 2009 12:11 AM
To: Burns, Curtis (Bob)
Cc: (b) (6)
Subject: RE: SSI shitstorm warning

Bob,

thank you for the rapid notification. For the formal report on this incident I think (b) (5)

(b) (6)
SSI Reviews Manager
TSA - OI - SSI

-----Original Message-----
From: Burns, Curtis Bob
Sent: Sun 12/6/2009 7:42 PM
To: (b) (6); Lee, Kristin; (b) (6)
Subject: Fw: SSI shitstorm warning

(b) (5) I'm not in front of a computer right now so I can't look at it. (b) (5) I'll take a look when I get home.

Sent Using BlackBerry
Curtis "Bob" Burns
OSCPA - TSA Blogger
(b) (6)

From: (b) (6)
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Sorry to crap all over your weekend but the management SOP has been released and the redacted parts are available for all to see. I wanted to give you a heads up so you are not walking in blind on Monday morning.

http://www.rebelmodel.com/tsa/

Culmer, Jonella

From: Burns, Curtis Bob
Sent: Friday, July 24, 2009 1:46 PM
To: Burns, Curtis (Bob)
Subject: The Blog Report 7/23

The Blog Report 7/23

Here's Your Registered Traveler Update//Things With Wings

AFGE TSA Blog: AFGE TSOs meet with TSA managment in first-ever meeting//AFGE Blog (Notice the AFGE can't spell management)

TSO's don't get mad, they get even//Trollkiller's World

TSA Related Tweets on Twitter? Click → HERE

This e-mail will highlight various topics from blogs, message boards and more related to TSA. Please pay close attention to comments in the blog posts as sometimes they are more valuable and interesting than the post itself.

Curtis "Bob" Burns TSA Blogger
DHS/TSA Office of Strategic Communications & Public Affairs
571-227(b) (6)(C(b) (6) (BB)



Payne, Sterling

From: Payne, Sterling
Sent: Tuesday, July 28, 2009 10:23 AM
To: Burns, Curtis Bob
Subject: Re: Interview Request
Attachments: image019.jpg; image020.jpg; image021.jpg; image022.jpg; image023.png; image024.jpg; image025.png; image026.png; image027.jpg

I will review, thanks.

Sterling Payne
TSA Office of Public Affairs
(b) (6)

From: Burns, Curtis Bob
To: Payne, Sterling
Sent: Tue Jul 28 10:06:24 2009
Subject: Interview Request

(b) (6) (AKA Trollkiller) has requested an e-mail interview with me to be posted on his blog. Trollkiller's World (b) (5)

(b) (5) (b) (6) (b) (5)
(b) (5)

- What was the name of your band and is there anywhere we can hear Blogger Bob get musical?
- Blogger Bob, over the past year the TSA blog has propelled you into the public eye, have people on the street or in the airports recognized you and your signature ties?
- Who hung the "Blogger Bob" handle on you?
- Did you do any blogging before the TSA blog? (if so, what subjects?)
- You seem to have an easy style of writing, do you have any formal training in journalism or copy writing?
- I know the blog is not your only duty at the TSA, what exactly does a Management Analyst with the Office of Strategic Communications and Public Affairs do? (most likely there will be follow up questions to this one)
- When will we be getting a replacement for Poster Boy?
- I realize that your blog posts are vetted by your superiors, how often do they censor your writings?
- For what reasons do they censor your writings?
- Are there any plans to make the molesting of luggage by TSOs and airport/airline staff more difficult?

- Have recent cases involving the TSA (Fofana and Bierfeldt) caused any changes in the SOP?
- There seems to have been a noticeable increase in the number of random gate checks recently. Is this related to an imminent threat or simply a way to use spare capacity in the workforce?
- Are TSOs supposed to be screened before entering the sterile area?

Curtis "Bob" Burns TSA Blogger
DHS/TSA Office of Strategic Communications & Public Affairs
571-227(b) (6)(O) (b) (6) (BB)



Payne, Sterling

From: Burns, Curtis Bob
Sent: Monday, August 17, 2009 10:57 AM
To: Payne, Sterling
Subject: RE: your stuff

Sterling,

- (b) (5)

Thanks!

Curtis "Bob" Burns TSA Blogger
DHS/TSA Office of Strategic Communications & Public Affairs
571-227-(b) (6) (O)(b) (6) (BB)

From: Payne, Sterling
Sent: Monday, August 17, 2009 10:00 AM
To: Burns, Curtis Bob
Subject: your stuff

Hi there:

Non-Responsive (b) (5)

Non-Responsive

Payne, Sterling

From: Horowitz, Sarah
Sent: Monday, December 07, 2009 3:29 PM
To: Burns, Curtis Bob; Payne, Sterling; Lee, Kristin; Soule, Greg; Gaches, Lauren
Cc: Culmer, Jonella; Doucette, Ashley
Subject: RE: Social Media Response to SOP Leak - 12/7/09 1500
Attachments: image001.jpg; image002.jpg; image003.jpg; image004.jpg; image005.png; image006.jpg; image007.png; image008.png; image009.jpg

I don't know how big of a blog this is compared to the other, but didn't see it in Bob's list below.

New TSA Security Blooper Might Be The Dumbest One Yet

December 7, 2009 at 2:44 PM | by Omri | 0 Comments

A few years ago, the **TSA** was forced to acknowledge that print-at-home boarding passes represented a huge **airport security** loophole, since terrorists on the no-fly list could use a fake boarding pass at the kiosks and a legitimate one at ID stations. But it's OK, TSA assured us, because the no-fly is only the first line of defense and the metal detectors were the real security.

Then it was announced—on the *very same weekend*—that TSA missed 20 out of 22 hidden weapons at the metal detectors during a Newark security drill. Now take all that and fast forward to this weekend, when the **TSA accidentally posted the entirety of their screening procedures on the Internet**.

it's pretty bad...

According to Boing Boing, the TSA was instructed to release their screening procedures on the Internet, which is an extremely delicate and risky process. Releasing too much information would allow someone to reverse engineer screening criteria—who TSA looks for, how they look for them, and who gets a pass—and maximize their chances of slipping contraband into the terminal.

So TSA staffers, because they're security-minded, redacted the sensitive parts. But TSA staffers, because they're ferrets, did the redacting by drawing big black boxes all over the PDF, which can be removed. Suffice to say that as of this morning the screening procedures protecting airports in the United States are available to the planet.

We'll avoid the political angles on this story, if only because they'll be available on other blogs. But just to give you a small sense of what a monumental national security clusterfark this is: there's **a list of 12 countries where if you have those passports you're automatically selected for additional screening**. So now if you want to avoid additional screening, you know which passports not to forge. And if you're a big terrorist organization looking for hijackers, you know which citizens not to send.

There are also sections on how instruments are calibrated and, maybe best of all, on what kinds of credentials people have to present to **get exemptions from screening.**

Obviously some of these procedures can't be altered and some of this damage can't be repaired. But let's imagine none of that was true and that all the sensitive policies could be changed. It would still be the undeniable case that our safety has been entrusted to morons.

Sarah R. Horowitz
Office of Strategic Communications & Public Affairs
Transportation Security Administration
Department of Homeland Security
(b) (6) (cell)
571.227(b) (6) (desk)
571.227.2552 (fax)

From: Burns, Curtis Bob
Sent: Monday, December 07, 2009 3:02 PM
To: Payne, Sterling; Lee, Kristin; Soule, Greg; Gaches, Lauren
Cc: Culmer, Jonella; Doucette, Ashley; Horowitz, Sarah; (b) (6)
(b) (6) Baird, Dwayne; Davis, Ann; Fotenos, James ; Harmon, Carrie; Koshetz, Sari; McCauley, Andrea; Melendez, Nico; Trevino, Suzanne; Uselding, Lara
Subject: Social Media Response to SOP Leak - 12/7/09 1500

The following pages that I'm aware of have actually hosted the SOP on their page for public download:

Trollkiller's World: http://www.rebelmodel.com/tsa/

Scribd (Posted in 3 separate places) : http://www.scribd.com/doc/23757640/Screening-Management-SOP-Redacted, http://www.scribd.com/doc/23761449/TSA-Screening-SOP, http://www.scribd.com/doc/23786282/Screening-Management-SOP-Redacted ,

Cryptome: http://cryptome.org/

The following significant blogs have posted about this.

- Gadling - http://www.gadling.com/2009/12/07/tsa-standard-operating-procedures-document-fails-redact-top-secrect/
- Boarding Area – http://boardingarea.com/blogs/viewfromthewing/2009/12/06/the-tsa-puts-their-sensitive-security-screening-procedures-online-for-all-to-see-oops/
- The Wandering Aramean – http://www.wanderingaramean.com/2009/12/tsa-makes-another-stupid-move.html
- USA Today Central Intelligence Agency - http://content.usatoday.com/topics/article/Organizations/Government+Bodies/Central+Intelligence+Agency/0gXCeQ2bLY6WX/0
- The Democratic Underground - http://www.democraticunderground.com/discuss/duboard.php?az=view_all&address=389x7168444
- Boing Boing – http://www.boingboing.com
- Reddit - http://www.reddit.com/r/news/comments/abxkj/tsa_cant_redact_documents_properly_releases/.mobile

- Pilots of America - http://www.pilotsofamerica.com/forum/showthread.php?p=526218

The following significant Tweeters have Tweeted about this.

BoingBoing
1:25am, Dec 07 from twitterfeed
TSA can't **redact** documents properly, releases s00per s33kr1t operations manual http://bit.ly/6LqYal (Nearly 29,000 followers)

frugaltraveler
7:34am, Dec 07 from Publish2
The **TSA** accidentally releases **secret**, unredacted operations manual. Download it now! http://bit.ly/4O6Cvl (Nearly 10,000 followers)

purplehayz
1:11pm, Dec 07 from web
TSA can't **redact** documents properly, releases s00per s33kr1t operations manual http://is.gd/5eXR2 (Nearly 10,000 followers)

benpolitico
9:12am, Dec 07 from Tweetie
RT @JonHenke **TSA**: Dumber than ever http://bit.ly/8DLGiS //Wow. Read to end for complex methods for foiling their **redaction** of secret doc. (Ben has Nearly 9,000 followers and writes for Politico)

newsycombinator
9:00pm, Dec 06 from API
TSA redaction fail: hidden text easily readable via copy & paste http://bit.ly/6PKtJ0 (Nearly 8,000 followers)

emellemjoe
1:37am, Dec 07 from twitterfeed
Hot Blog Posts: **TSA** can't **redact** documents properly, releases s00per s33kr1t operations manual: The **TSA** has publis... http://bit.ly/6jyrUW (Nearly 7,000 followers)

webstartupgroup
9:00pm, Dec 06 from TweetSimple
StartupNews: **TSA redaction** fail: hidden text easily readable via copy & paste http://bit.ly/8GE0hJ (Nearly 6,000 followers)

inestdia
1:44am, Dec 07 from Ping.fm
TSA can't **redact** documents properly, releases s00per s33kr1t operations manual http://bit.ly/6jyrUW (Nearly 4,000 followers)

Curtis "Bob" Burns TSA Blogger
DHS/TSA Office of Strategic Communications & Public Affairs
571-227(b) (6)O)(b) (6) (BB)



Payne, Sterling

From: Hoggan, Kelly (TSA)
Sent: Wednesday, December 09, 2009 2:10 PM
To: Lee, Kristin; Payne, Sterling
Subject: Re: One of you free for a quick second

http://trollkiller.spreadshirt.com/don-t-blame-me-A5423330/
Kelly C. Hoggan
Deputy Assistant Administrator
Security Operations
Transportation Security Administration
(b) (6) (C)

----- Original Message -----
From: Lee, Kristin
To: Hoggan, Kelly (TSA)
Sent: Wed Dec 09 14:02:43 2009
Subject: RE: One of you free for a quick second

(571) 227-(b) (6)(office)

-----Original Message-----
From: Hoggan, Kelly (TSA)
Sent: Wednesday, December 09, 2009 2:02 PM
To: Lee, Kristin
Subject: Re: One of you free for a quick second

Ok - number pls
Kelly C. Hoggan
Deputy Assistant Administrator
Security Operations
Transportation Security Administration
(b) (6) (C)

----- Original Message -----
From: Lee, Kristin
To: Hoggan, Kelly (TSA); Payne, Sterling
Sent: Wed Dec 09 14:00:47 2009
Subject: RE: One of you free for a quick second

I have an urgent question for you or Lee - Can you call us now?

-----Original Message-----
From: Hoggan, Kelly (TSA)
Sent: Wednesday, December 09, 2009 1:59 PM
To: Payne, Sterling; Lee, Kristin
Subject: One of you free for a quick second

Around 3
Kelly C. Hoggan
Deputy Assistant Administrator
Security Operations
Transportation Security Administration

Payne, Sterling

From: Hoggan, Kelly (TSA)
Sent: Wednesday, December 09, 2009 2:16 PM
To: Payne, Sterling; Lee, Kristin
Subject: Re: One of you free for a quick second

(b) (5)
Kelly C. Hoggan
Deputy Assistant Administrator
Security Operations
Transportation Security Administration
(b) (6) (C)

----- Original Message -----
From: Payne, Sterling
To: Hoggan, Kelly (TSA); Lee, Kristin
Sent: Wed Dec 09 14:13:19 2009
Subject: Re: One of you free for a quick second

Thanks. Yeah - this blogger (not Bob, trollkiller) has created several t-shirts that feature Bob and even one for MMW. He is one of our most avid bloggers.

----- Original Message -----
From: Hoggan, Kelly (TSA)
To: Lee, Kristin; Payne, Sterling
Sent: Wed Dec 09 14:10:22 2009
Subject: Re: One of you free for a quick second

http://trollkiller.spreadshirt.com/don-t-blame-me-A5423330/
Kelly C. Hoggan
Deputy Assistant Administrator
Security Operations
Transportation Security Administration
(b) (6) (C)

----- Original Message -----
From: Lee, Kristin
To: Hoggan, Kelly (TSA)
Sent: Wed Dec 09 14:02:43 2009
Subject: RE: One of you free for a quick second

(571) 227-(b) (6) (office)

-----Original Message-----
From: Hoggan, Kelly (TSA)
Sent: Wednesday, December 09, 2009 2:02 PM
To: Lee, Kristin
Subject: Re: One of you free for a quick second

Ok - number pls
Kelly C. Hoggan
Deputy Assistant Administrator
Security Operations

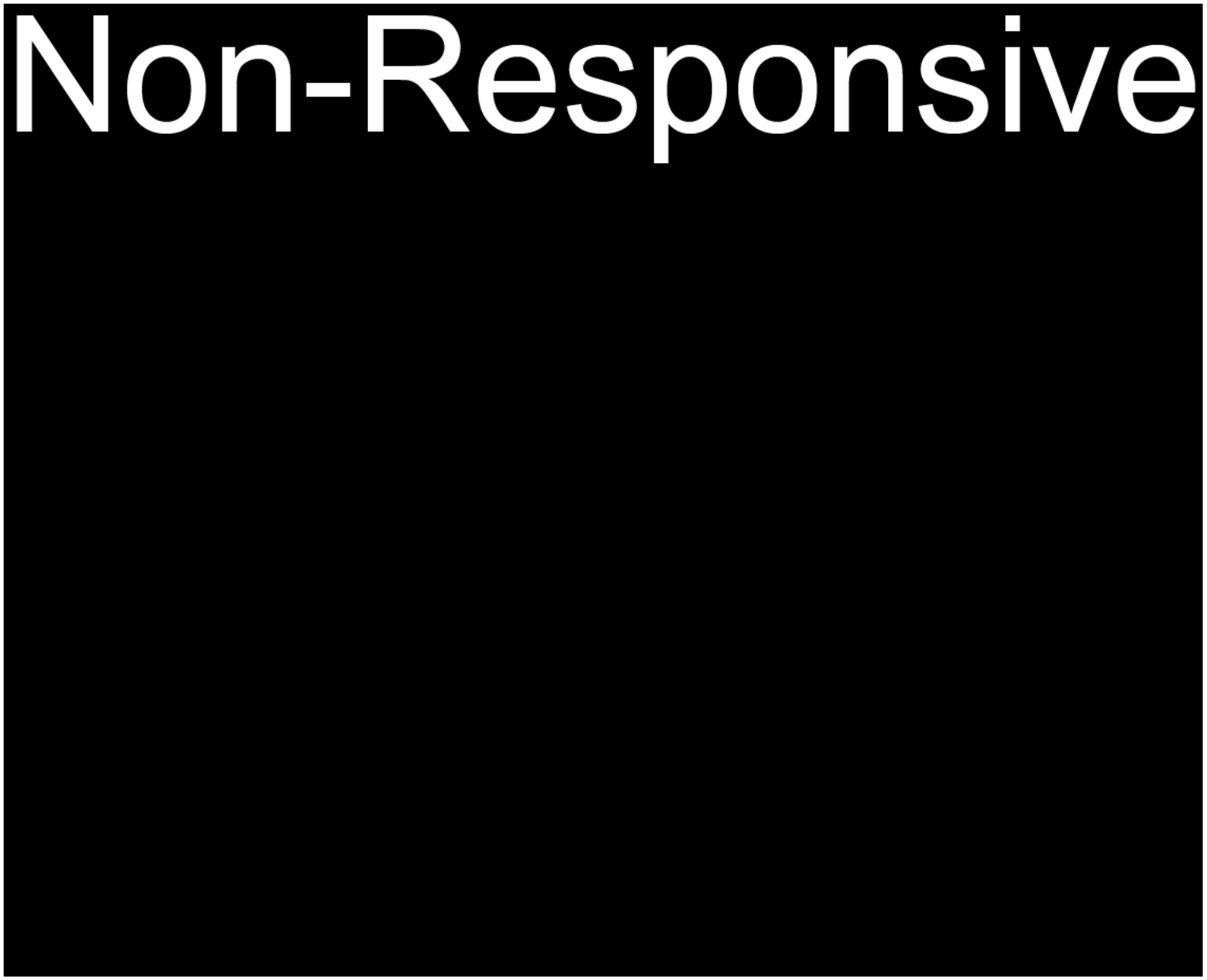
Transportation Security Administration
(b) (6) (C)

----- Original Message -----
From: Lee, Kristin
To: Hoggan, Kelly (TSA); Payne, Sterling
Sent: Wed Dec 09 14:00:47 2009
Subject: RE: One of you free for a quick second

I have an urgent question for you or Lee - Can you call us now?

-----Original Message-----
From: Hoggan, Kelly (TSA)
Sent: Wednesday, December 09, 2009 1:59 PM
To: Payne, Sterling; Lee, Kristin
Subject: One of you free for a quick second

Around 3
Kelly C. Hoggan
Deputy Assistant Administrator
Security Operations
Transportation Security Administration
(b) (6) (C)



From: Burns, Curtis Bob
To: Kair, Lee R; Goldman, Howard <TSA OCC>; Lee, Kristin; (b) (6) Kauffman, Keith G; Cipicchio, Domenico; (b) (6) ; Heffernan, Claire M.; Vieco, Russell E; (b) (6) (b) (6) ; Garrison-Alexander, Emma; Rice, Stephen
Cc: Payne, Sterling; Soule, Greg; Gaches, Lauren; Baird, Dwayne
Sent: Mon Dec 14 22:17:56 2009
Subject: RE: ABC News request re: SOP

For your awareness: This web page (http://rebelmodel.com/tsa/SOP.htm) belongs to (b) (6) (AKA Trollkiller) He's the one that tipped me off about the SOP in the beginning.

For what it's worth, I have a good relationship with him and can reach out with any questions you might have on this.

Bob Burns
TSA Blogger
571-227(b) (6)
(b) (6)

Payne, Sterling

From: Lee, Kristin
Sent: Friday, January 01, 2010 12:47 PM
To: Burns, Curtis Bob
Cc: Payne, Sterling
Subject: Anything new?

(b) (5)

Payne, Sterling

From: Lee, Kristin [(b) (6)
Sent: Friday, January 01, 2010 2:28 PM
To: Burns, Curtis R; Payne, Sterling; Lee, Kristin
Subject: Re: SSI Blogs

(b) (5)

----- Original Message -----
From: Burns, Curtis Bob (b) (6)
To: Payne, Sterling (b) (6) ; Lee, Kristin (b) (6)
Sent: Fri Jan 01 13:37:10 2010
Subject: SSI Blogs

Not much action on this one yet, (b) (5)

Trollkiller - http://www.rebelmodel.com/tsa/

Flyertalk - http://www.flyertalk.com/forum/travel-safety-security/1034046-another-poorly-redacted-ssi-document.html

Pogo Was Right - http://www.pogowasright.org/?p=6733

Centennial Man - http://centennial-man.blogspot.com/2010/01/i-suspect-lawyers-are-finding-ways.html

Twitter:

(b) (5)

Dr. Emma,

(b) (5)

Today, 8:26 pm

Trollkiller

Join Date: Jul 2008
Location: Florida
Posts: 2,226

Another poorly redacted SSI document.

http://www.mspb.gov/netsearch/viewdo...cation=ACROBAT

I thought they fixed that problem.

Special thanks to Cryptome.

http://cryptome.org/0001/tsa-ssi-02.htm

I am still reading it so I don't know if there is anything juicy yet.

Submit your Anonymous TSA insider tips to Trollkiller's World
TSOs come play at the **Screeners Forum**.

(b) (6)

Assistant Director, Technical Services

Information Assurance Division (IAD)

Office of Information Technology (OIT)

Transportation Security Administration (TSA)

Email: (b) (6)

Cell: (b) (6)

Desk: 571.227(b) (6)

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From: Lee, Kristin
Sent: Thursday, December 31, 2009 9:56 PM
To: (b) (6) Kauffman, Keith G; (b) (6); Kair, Lee R; Holmes, David <Assistant Administrator>; Garrison-Alexander, Emma
Cc: Payne, Sterling; (b) (6) Goldman, Howard <TSA OCC>; Burns, Curtis Bob; Rice, Stephen
Subject: Fw: Heads up another SSI document is in the wild
Importance: High

Heads-up on the below. Bob- thanks for sending. I'm also away from a computer and unable to view. Can anyone verify what this is?

From: Burns, Curtis Bob
To: (b) (6) Lee, Kristin
Sent: Thu Dec 31 21:47:59 2009
Subject: Fw: Heads up another SSI document is in the wild

I just got this from Trollkiller. I'm at a red light now, bit I am driving and can't look at it.

Sent Using BlackBerry
Curtis "Bob" Burns
OSCPA - TSA Blogger
(b) (6)

From: (b) (6)
To: Curtis Bob Burns (b) (6)
Sent: Thu Dec 31 21:45:13 2009
Subject: Heads up another SSI document is in the wild

Cryptome has discovered another poorly redacted SSI document.

http://www.flyertalk.com/forum/travel-safety-security/1034046-another-poorly-redacted-ssi-document.html

(b) (6)

Payne, Sterling

From: Payne, Sterling
Sent: Thursday, July 01, 2010 2:44 PM
To: Berumen, Paul; Macias, Art <Chief of Staff>
Cc: Lee, Kristin
Subject: FW: Pistole Internal Memo Already Posted to Flyertalk (Trollkiller Again)

FYI

From: Burns, Curtis (Bob)
Sent: Thursday, July 01, 2010 2:19 PM
To: Lee, Kristin; Simons, Michael; (b) (6) Payne, Sterling
Subject: Pistole Internal Memo Already Posted to Flyertalk (Trollkiller Again)

http://www.flyertalk.com/forum/travel-safety-security/1101222-pistole-letter-tsa-employees.html

Curtis "Bob" Burns
TSA Office of Public Affairs
Social Media Analyst
571-227-(b) (6) (O) (b) (6) (BB)
The TSA Blog / @TSABlogTeam

(b) (5)

(b) (5)

(b) (5)

(b) (5)

Plofker, Howard <TSA OCC>

From: (b) (6) <TSA OCC>
Sent: Friday, March 07, 2008 3:56 PM
To: (b) (6) <TSA OCC>
Subject: RE: Francine's post

(b) (5)

(b) (6)
Attorney-Advisor
Office of Chief Counsel
Transportation Security Administration
571-227(b) (6)

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-----Original Message-----
From: (b) (6) <TSA OCC>
Sent: Friday, March 07, 2008 3:55 PM
To: (b) (6) <TSA OCC>
Subject: RE: Francine's post

Thanks

-----Original Message-----
From: (b) (6) <TSA OCC>
Sent: Friday, March 07, 2008 3:54 PM
To: (b) (6) <TSA OCC>
Subject: FW: Francine's post

FYI

(b) (6)
Attorney-Advisor
Office of Chief Counsel
Transportation Security Administration
571-227-(b) (6)

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-----Original Message-----
From: (b) (6)
Sent: Friday, March 07, 2008 3:51 PM
To: (b) (6) <TSA OCC>
Cc: (b) (6) <OCC>; Kerner, Francine
Subject: RE: Francine's post

Thanks, (b) (6) Francine's comment is up:
http://www.tsa.gov/blog/2008/03/why-we-do-what-we-do-when-security.html#c5695665998404841417

Have a great weekend,

(b) (6)

-----Original Message-----
From: (b) (6) <TSA OCC>
Sent: Friday, March 07, 2008 1:40 PM
To: (b) (6)
Cc: (b) (6) <OCC>; Kerner, Francine
Subject: FW: Francine's post

Hi (b) (6)
Francine sent me the post from last night - see below. Can you make sure it gets posted today? Thanks so much!

(b) (6)

-----Original Message-----
From: Kerner, Francine
Sent: Friday, March 07, 2008 1:33 PM
To: (b) (6) <TSA OCC>
Subject:

(b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

Plofker, Howard <TSA OCC>

From: (b) (6) <OCC> <(b) (6)>
Sent: Wednesday, March 19, 2008 11:26 AM
To: (b) (6) <TSA OCC>
Subject: FW: "Potpourri" post

I just realized I forgot to cc you on the original email. Sorry!

(b) (6)
Attorney
Office of Chief Counsel
Transportation Security Administration
Phone: (571) 227(b) (6)
Cell: (b) (6)
Fax: (571) 227-1381
email: (b) (6)

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-----Original Message-----
From: Kerner, Francine
Sent: Wednesday, March 19, 2008 9:57 AM
To: (b) (6) <OCC>
Subject: Re: "Potpourri" post

Okay. (b) (5)

----- Original Message -----
From: (b) (6) <OCC>
To: Kerner, Francine
Sent: Wed Mar 19 09:54:21 2008
Subject: RE: "Potpourri" post

Not yet. (b) (5) Trollkiller's most recent question re: whistleblower protections was on the post from this week: "Rumor Alert: Conflict of Interest at TSA?" which I have copied below. (b) (5)

Trollkiller said...
To (b) (6):

I hope the TSA issued you some fire proof clothing when they tapped you for this blog, because you are taking some heat my friend.

So who was the DHS Attaché to the United Kingdom before Mr. Restovich?

What kind of security consulting did 2M engage in? (The answer to this could quickly end the question about conflict of interest)

By the way, I am still waiting on answers to the following questions.

Why do the TSOs not have full whistle blower protection?

What avenues do the TSOs have open to them to report the abusive acts of coworkers or managers?

(b) (6)
[redacted]
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Phone: (571) 227-(b) (6)
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Fax: (571) 227-1381
email: (b) (6)

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Non-Responsive

Plofker, Howard <TSA OCC>

From: (b) (6) <OCC> (b) (6)
Sent: Saturday, August 09, 2008 7:34 AM
To: Burns, Curtis; (b) (6)
Cc: Kerner, Francine; Drennan, John <TSA OCC>; Newhouse, Victoria <TSA OCC>; Johnson, Robert S <TSA OCC>; (b) (6)
Subject: Fw: 8 8 08 response
Attachments: 8 8 08 response.doc

(b) (6)/Bob:

Attached is the response to Trollkiller requested by Bob from OCC. Please post on behalf of Francine. Thanks!

----- Original Message -----
From: Kerner, Francine (b) (6)>
To: (b) (6) <OCC> (b) (6)>
Cc: Drennan, John <TSA OCC> (b) (6)>
Sent: Fri Aug 08 17:46:36 2008
Subject: 8 8 08 response

Thanks. Ready to roll as attached.

Trollkiller said...

Someone at the TSA wrote...

There is no conflict to reconcile. It is true that 49 C.F.R Section 1540.5 describes screening functions and screening locations in terms of the inspection of individuals and property for weapons, explosives, and incendiaries. However, 49 C.F.R. Section 1540.105(a)(2) doesn't use the word 'screening' at all. Section 1540.105(a)(2) simply states that persons may not enter the sterile area without complying with the systems, measures, or procedures being applied to control access to that area. TSA's identification requirement is one such system, measure or procedure that is used to determine who is permitted to access the sterile area.

I was going to rebut this "answer" in one all encompassing post. Instead I decided to break down the rebuttal in to smaller chunks for readability.

First let me say I know Blogger Bob did not write this "answer" as it lacks his style, wit and intelligence. On with the show.

C.F.R. 49 § 1540.105 Security responsibilities of employees and other persons.

(a) No person may:

(2) Enter, or be present within, a secured area, AOA, SIDA or sterile area without complying with the systems, measures, or procedures being applied to control access to, or presence or movement in, such areas.

Ok I will bite, what is the forced ID verification? Is it a "system",

"measure" or "procedure"?

Not that it matters because C.F.R. 49 § 1540.5 describes **in very clear language** what systems, measures or procedures are to be used to grant access to the sterile area.

C.F.R. 49 § 1540.5

***Sterile area** means a portion of an airport defined in the airport security program that provides passengers access to boarding aircraft and to which the **access generally is controlled by TSA**, or by an aircraft operator under part 1544 of this chapter or a foreign air carrier under part 1546 of this chapter, **through the screening of persons and property**.*

This law clearly states access generally is controlled by TSA THROUGH the screening of persons and property.

I find it very interesting that the "answer" failed to address this definition. You can not disregard a portion of the law you don't like.

This definition is a very important part of the law as it defines what the TSA is allowed to do in order to grant access to a sterile area.

The TSA is allowed by this definition to enact any procedure, system or measure that inspects or searches for weapons, explosives, and incendiaries. A forced ID verification does NOT search for weapons, explosives, and incendiaries and therefore is disallowed under this definition.

Please reconcile the forced ID verification in light of THIS definition.

August 5, 2008 2:40 PM

In response, I would like to share my perspective of this issue and my legal analysis. From my perspective, in considering these matters, we need to go back to first principles: what security goals are we trying to achieve? One goal is to ensure that bad things are kept out of the sterile area. Another goal is to ensure that known or suspected terrorists are kept out of the secure areas of the airport and off airplanes. We simply do not want to provide a terrorist with access to the aviation transportation system to plan, plot or carry out criminal acts.

To achieve the first goal, keeping out bad things, we perform a physical examination of passengers, employees and other individual who enter the secure areas of the airport. We also perform a physical examination of their property. Sometimes these security measures take place at the checkpoint. Sometimes they take place at other entrances to the airport.

To achieve the second goal, prohibiting entry by known or suspected terrorists (regardless of what they are carrying), we perform or cause others to perform an identity check against government databases. Identity vetting of airport or airline employees is a rigorous process that is based on a collection of fingerprints, a criminal history records check, and a security threat assessment.

Of obvious necessity, identity vetting of passengers is handled differently. I think of it as a two-step process, a responsibility shared between the air carriers and TSA. The air carriers compare a passenger's name to government watch-lists, while TSA ensures that the name provided to a carrier, as reflected on the boarding pass, matches the ID that the passenger is carrying.

It is instructive to note that before September 11, under government directive, air carriers were required to check a passenger's name against government watch-lists and confirm a passenger's identity by examining specified forms of identification.

Over the last year or more, TSA has taken over the identity verification process, stationing TSOs before the checkpoint to perform this function. More recently, TSA has determined that passengers who fail to show ID must otherwise assist in confirming their identity before being permitted sterile area entry. All of these steps have been taken to improve aviation security. Real ID and Secure Flight are other government programs that will continue to strengthen the identity vetting process.

As Chief Counsel, I firmly believe that TSA's ID requirements are warranted from a security perspective and entirely legal. Under a TSA regulatory provision, 49 C.F.R. § 1540.105(a)(2), a person may not enter the sterile area "without complying with the systems, measures, or procedures" applied to control access to the restricted area in question. Verifying the identity of passengers who access the sterile area falls within this rubric and is, in fact, part of TSA's screening process. It is true that an earlier regulatory provision, 49 C.F.R. § 1540.5, which sets forth definitions, states that access to the sterile area is "generally" controlled through the "screening" of persons and property and that "screening function means the inspection of individuals and property for weapons,

explosives, and incendiaries." The definition of "screening function," which focuses on physical inspection—the most intrusive form of screening—cannot be read to limit the Administrator's broad expanse of authority under the operative language of section 1540.105(a)(2) to establish "systems, measures or procedures" governing sterile area access, including an ID screening process. Certainly, the common definition of screening encompasses methods other than physical intrusion. One definition of screening listed by Google reads as follows: "Is the person on a watch-list? Biometric information can be used to determine if a person is cleared to be in a restricted area, or if the person is on a watch list (eg the FBI Most Wanted list)." Similarly, under section 1602(a)(5) of the 9/11 Implementation Act, H.R. 1, the definition of cargo "screening" includes methods other than physical inspection. Given the Administrator's fundamental statutory responsibility pursuant to 49 U.S.C. § 44901 to secure the aviation transportation system, a unduly narrow construction of § 1540.105(a)(5) cannot be justified.

I hope my response furthers the dialogue on these important issues. Thank you again for raising your concerns.

Kerner, Francine

From: Kerner, Francine
Sent: Thursday, March 20, 2008 3:13 PM
To: (b) (6) <OCC>
Subject: RE: Revised blog response - More responses to your whistleblower comment

It's up.

Francine J. Kerner
Chief Counsel
Transportation Security Administration
Telephone: (571) 227-(b) (6)
Cell phone: (b) (6)
Pager: (b) (6)
Fax: (571) 227-2555

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-----Original Message-----
From: (b) (6) <OCC>
Sent: Thursday, March 20, 2008 3:07 PM
To: Kerner, Francine
Subject: RE: Revised blog response - More responses to your whistleblower comment

Let me know when you've sent your comment and I will publish it right away although I think they are monitoring comments pretty frequently right now b/c they just published a new post on the Macbook Air.

(b) (6)
Attorney
Office of Chief Counsel
Transportation Security Administration
Phone: (571) 227-(b) (6)
Cell: (b) (6)
Fax: (571) 227-1381
email: (b) (6)

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-----Original Message-----
From: Kerner, Francine
Sent: Thursday, March 20, 2008 3:05 PM
To: Book, Heather <TSA OCC>
Cc: (b) (6) <OCC>; (b) (6) <TSA OCC>; Dean, Juanita <TSA OCC>; Newhouse, Victoria <TSA OCC>
Subject: RE: Revised blog response - More responses to your whistleblower comment

Great. I'm publishing.

Francine J. Kerner
Chief Counsel
Transportation Security Administration
Telephone: (571) 227-(b) (6)
Cell phone: (b) (6)
Pager: (b) (6)
Fax: (571) 227-2555

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-----Original Message-----
From: Book, Heather <TSA OCC>
Sent: Thursday, March 20, 2008 2:05 PM
To: Kerner, Francine
Cc: (b) (6) <OCC>; (b) (6) <TSA OCC>; Dean, Juanita <TSA OCC>; Newhouse, Victoria <TSA OCC>
Subject: RE: Revised blog response - More responses to your whistleblower comment

Francine,

(b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

Heather Sigrist Book
Assistant Chief Counsel (Employment Litigation) Transportation Security Administration Office of Chief Counsel, TSA-2
601 South 12th Street, (b) (6)
Arlington, VA 22202
571-227-(b) (6)
571-227-1377 (fax)
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-----Original Message-----
From: Kerner, Francine
Sent: Thursday, March 20, 2008 11:18 AM
To: Book, Heather <TSA OCC>; (b) (6) <TSA OCC>; (b) (6) <TSA OCC>
Cc: (b) (6) <OCC>; (b) (6) <TSA OCC>; Dean, Juanita <TSA OCC>
Subject: RE: More responses to your whistleblower comment

Are you available now? If so, please come down . . .

Francine J. Kerner
Chief Counsel
Transportation Security Administration
Telephone: (571) 227-(b) (6)
Cell phone: (b) (6)

Pager: (b) (6)
Fax: (571) 227-2555

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-----Original Message-----
From: Book, Heather <TSA OCC>
Sent: Thursday, March 20, 2008 11:16 AM
To: Kerner, Francine; (b) (6) <TSA OCC>; (b) (6) <TSA OCC>
Cc: (b) (6) <OCC>; (b) (6) <TSA OCC>; Dean, Juanita <TSA OCC>
Subject: RE: More responses to your whistleblower comment

Francine,
I've drafted a proposed response and we are available to meet with you to discuss. Should I ask (b) (6) or (b) (6) to get us on your calendar today?

Heather Sigrist Book
Assistant Chief Counsel (Employment Litigation) Transportation Security Administration Office of Chief Counsel, TSA-2
601 South 12th Street, (b) (6)
Arlington, VA 22202
571-227-(b) (6)
571-227-1377 (fax)
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-----Original Message-----
From: Kerner, Francine
Sent: Thursday, March 20, 2008 9:28 AM
To: Osler, Bonnie <TSA OCC>; Book, Heather <TSA OCC>; (b) (6) <OCC>
Subject: Fw: More responses to your whistleblower comment

Heather, could use your help on this. Will talk to you when I get into the office.

----- Original Message -----
From: (b) (6) <OCC>
To: Kerner, Francine

Sent: Thu Mar 20 09:19:45 2008
Subject: More responses to your whistleblower comment

Trollkiller said...

Thank you (b) (6) for posting Francine's reply.

Francine, I am glad you are enjoying my posts and I thank you for your replies.

I have a follow up question. When the law was written, was the ability for the TSOs to appeal to a federal court barred or just not included? In other words does the law say "TSA employees can not appeal to a federal court" or does the law say "TSA employees can appeal only by these methods" and thereby leaving out the court option.

Second follow up for you or anybody else in the home office.

What avenues do TSOs have to report abuse, gross mismanagement, or safety issues?

I thank you for your time, I know you must be one busy lady.

I look forward to your reply.

March 19, 2008 2:39 PM

Anonymous said...

@trollkiller:
does the law say "TSA employees can not appeal to a federal court" or does the law say "TSA employees can appeal only by these methods" and thereby leaving out the court option.

The law is 49 USC 114(n), extending to TSA from FAA 49 USC 40122(g).

March 19, 2008 3:42 PM

Anonymous said...

@trollkiller:What avenues do TSOs have to report ... safety issues?

You may wish to FOIA
TSA MD 2400.4 Employee Reports of Unsafe/Unhealthful Working Conditions

March 19, 2008 3:56 PM

Trollkiller said...

Anonymous said...
The law is 49 USC 114(n), extending to TSA from FAA 49 USC 40122(g).

Thanks for pointing me in the right direction, but unfortunately it is a bit of a rabbit trail. Maybe you can help further by telling me where I am missing the turn.

I see where 49 USC 114(n) take you over to § 40122. Federal Aviation Administration personnel management system.

I see where 40122(h) says you have the right to contest a major adverse action by using either Guaranteed Fair Treatment or what is described in 40122 (g)(3).

40122 (g)(3) says "an employee of the Administration may submit an appeal to the Merit Systems Protection Board and may seek judicial review of any resulting final orders or decisions of the Board from any action that was appealable to the Board under any law, rule, or regulation as of March 31, 1996"

Now according to Francine the TSOs did not have the Merit Systems Protection Board to turn to until February 2008.

So either the TSA has been violating Federal law all this time or these are the wrong statutes to explain why the TSOs don't have the same protection/recourse as other Federal employees.

I even looked in TITLE 5 > PART III > Subpart A > CHAPTER 23 > § 2302. Prohibited personnel practices.
As referenced in 40122 (g)(2)(a)

I still did not find anything that would keep TSOs from being allowed to appeal to a court of law.

Francine said:
Congress would have to pass a new law granting TSOs the right to appeal MSPB decisions to federal court. That's because Congress gave TSA special personnel authority to handle a large and dynamic TSO workforce and that special authority does not permit TSO personnel actions to be appealed to any court.

So hopefully she can answer my follow up question or someone else can point me to this special personnel authority.

Once again, thank you for the attempt.

March 20, 2008 4:24 AM

Trollkiller said...

Anonymous said...

You may wish to FOIA
TSA MD 2400.4 Employee Reports of Unsafe/Unhealthful Working Conditions

If (b) (6) is any indication it would be 100+ days before I would receive it.

I don't understand why it would be difficult to explain the avenues TSOs have open to report abuse, gross mismanagement, or safety issues.

The lack of an answer to this fairly simple question confuses me. Maybe the TSA is afraid that the avenues are not sufficient or maybe they just don't understand what I am looking for.

In my current company if I have a problem with a coworker I have several avenues open, and we are a small company. I can bring it up to the supervisor of that employee, I can bring it up with the supervisor's boss, I can take it to HR, I can take it up with the two vice presidents or I can go tap on the owner's door and tell him.

When I worked for a much larger company, one that would make the TSA look like a Mom & Pop, I could go to my supervisor, take it to my manager, take it to regional, call HR, call legal, call an independent company that contracted to ours, call the vice president's office or call the president's office.

All those numbers were posted on the wall in the break room, printed in our hand book and posted on our intranet.

So what avenues are open to the TSOs?

If you are wondering why I am being persistent and will continue to be persistent until I get an answer, I will tell you.

I figure with 40+k TSOs there has to be a fair number of good people. Those that cringe every time a coworker abuses a traveler. Those that hate working with thieves. Those that hate working with those that compromise security instead of enhancing it.

I want to support those people. I want my airports to be safe, and I want my rights protected. The only way to do that is to rid the TSA of bad TSOs.

(b) (6)

(b) (6)

Attorney

Office of Chief Counsel

Transportation Security Administration

Phone: (571) 227-(b) (6)

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email: (b) (6)

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Kerner, Francine

From: Kerner, Francine
Sent: Thursday, March 20, 2008 3:13 PM
To: (b) (6) <OCC>
Subject: RE: Revised blog response - More responses to your whistleblower comment

It should be up.

Francine J. Kerner
Chief Counsel
Transportation Security Administration
Telephone: (571) 227(b) (6)
Cell phone: (b) (6)
Pager: (b) (6)
Fax: (571) 227-2555

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Sent: Thursday, March 20, 2008 3:07 PM
To: Kerner, Francine
Subject: RE: Revised blog response - More responses to your whistleblower comment

Let me know when you've sent your comment and I will publish it right away although I think they are monitoring comments pretty frequently right now b/c they just published a new post on the Macbook Air.

(b) (6)
Attorney
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Transportation Security Administration
Phone: (571) 227-(b) (6)
Cell: (b) (6)
Fax: (571) 227-1381
email: (b) (6)

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From: Kerner, Francine
Sent: Thursday, March 20, 2008 3:05 PM
To: Book, Heather <TSA OCC>
Cc: (b) (6) <OCC>; (b) (6) <TSA OCC>; Dean, Juanita <TSA OCC>; Newhouse, Victoria <TSA OCC>
Subject: RE: Revised blog response - More responses to your whistleblower comment

Great. I'm publishing.

Francine J. Kerner
Chief Counsel
Transportation Security Administration
Telephone: (571) 227-(b) (6)
Cell phone: (b) (6)
Pager: (b) (6)
Fax: (571) 227-2555

This communication might contain communications between attorney and client, communications that are part of the agency deliberative process, or attorney-work product, all of which are privileged and not subject to disclosure outside the agency or to the public. Please consult with the Office of Chief Counsel before disclosing any information contained in this email.

-----Original Message-----
From: Book, Heather <TSA OCC>
Sent: Thursday, March 20, 2008 2:05 PM
To: Kerner, Francine
Cc: (b) (6) <OCC>; (b) (6) <TSA OCC>; Dean, Juanita <TSA OCC>; Newhouse, Victoria <TSA OCC>
Subject: RE: Revised blog response - More responses to your whistleblower comment

Francine,

(b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (5)

Heather Sigrist Book
Assistant Chief Counsel (Employment Litigation) Transportation Security Administration Office of Chief Counsel, TSA-2
601 South 12th Street, (b) (6)
Arlington, VA 22202
571-227-(b) (6)
571-227-1377 (fax)
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-----Original Message-----
From: Kerner, Francine
Sent: Thursday, March 20, 2008 11:18 AM
To: Book, Heather <TSA OCC>; (b) (6) <TSA OCC>; (b) (6) <TSA OCC>
Cc: (b) (6) <OCC>; (b) (6) <TSA OCC>; Dean, Juanita <TSA OCC>
Subject: RE: More responses to your whistleblower comment

Are you available now? If so, please come down . . .

Francine J. Kerner
Chief Counsel
Transportation Security Administration
Telephone: (571) 227-(b) (6)
Cell phone: (b) (6)

Pager: (b) (6)
Fax: (571) 227-2555

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-----Original Message-----
From: Book, Heather <TSA OCC>
Sent: Thursday, March 20, 2008 11:16 AM
To: Kerner, Francine; (b) (6) <TSA OCC>; (b) (6) <TSA OCC>
Cc: (b) (6) <OCC>; (b) (6) <TSA OCC>; Dean, Juanita <TSA OCC>
Subject: RE: More responses to your whistleblower comment

Francine,
(b) (5)

Heather Sigrist Book
Assistant Chief Counsel (Employment Litigation) Transportation Security Administration Office of Chief Counsel, TSA-2
601 South 12th Street, (b) (6)
Arlington, VA 22202
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-----Original Message-----
From: Kerner, Francine
Sent: Thursday, March 20, 2008 9:28 AM
To: Osler, Bonnie <TSA OCC>; Book, Heather <TSA OCC>; (b) (6) <OCC>
Subject: Fw: More responses to your whistleblower comment

Heather, could use your help on this. Will talk to you when I get into the office.

----- Original Message -----
From: (b) (6) <OCC>
To: Kerner, Francine

Sent: Thu Mar 20 09:19:45 2008
Subject: More responses to your whistleblower comment

Trollkiller said...

Thank you (b) (6) for posting Francine's reply.

Francine, I am glad you are enjoying my posts and I thank you for your replies.

I have a follow up question. When the law was written, was the ability for the TSOs to appeal to a federal court barred or just not included? In other words does the law say "TSA employees can not appeal to a federal court" or does the law say "TSA employees can appeal only by these methods" and thereby leaving out the court option.

Second follow up for you or anybody else in the home office.

What avenues do TSOs have to report abuse, gross mismanagement, or safety issues?

I thank you for your time, I know you must be one busy lady.

I look forward to your reply.

March 19, 2008 2:39 PM

Anonymous said...

@trollkiller:
does the law say "TSA employees can not appeal to a federal court" or does the law say "TSA employees can appeal only by these methods" and thereby leaving out the court option.

The law is 49 USC 114(n), extending to TSA from FAA 49 USC 40122(g).

March 19, 2008 3:42 PM

Anonymous said...

@trollkiller:What avenues do TSOs have to report ... safety issues?

You may wish to FOIA
TSA MD 2400.4 Employee Reports of Unsafe/Unhealthful Working Conditions

March 19, 2008 3:56 PM

Trollkiller said...

Anonymous said...
The law is 49 USC 114(n), extending to TSA from FAA 49 USC 40122(g).

Thanks for pointing me in the right direction, but unfortunately it is a bit of a rabbit trail. Maybe you can help further by telling me where I am missing the turn.

I see where 49 USC 114(n) take you over to § 40122. Federal Aviation Administration personnel management system.

I see where 40122(h) says you have the right to contest a major adverse action by using either Guaranteed Fair Treatment or what is described in 40122 (g)(3).

40122 (g)(3) says "an employee of the Administration may submit an appeal to the Merit Systems Protection Board and may seek judicial review of any resulting final orders or decisions of the Board from any action that was appealable to the Board under any law, rule, or regulation as of March 31, 1996"

Now according to Francine the TSOs did not have the Merit Systems Protection Board to turn to until February 2008.

So either the TSA has been violating Federal law all this time or these are the wrong statutes to explain why the TSOs don't have the same protection/recourse as other Federal employees.

I even looked in TITLE 5 > PART III > Subpart A > CHAPTER 23 > § 2302. Prohibited personnel practices.
As referenced in 40122 (g)(2)(a)

I still did not find anything that would keep TSOs from being allowed to appeal to a court of law.

Francine said:
Congress would have to pass a new law granting TSOs the right to appeal MSPB decisions to federal court. That's because Congress gave TSA special personnel authority to handle a large and dynamic TSO workforce and that special authority does not permit TSO personnel actions to be appealed to any court.

So hopefully she can answer my follow up question or someone else can point me to this special personnel authority.

Once again, thank you for the attempt.

March 20, 2008 4:24 AM

Trollkiller said...

Anonymous said...

You may wish to FOIA
TSA MD 2400.4 Employee Reports of Unsafe/Unhealthful Working Conditions

If (b) (6) is any indication it would be 100+ days before I would receive it.

I don't understand why it would be difficult to explain the avenues TSOs have open to report abuse, gross mismanagement, or safety issues.

The lack of an answer to this fairly simple question confuses me. Maybe the TSA is afraid that the avenues are not sufficient or maybe they just don't understand what I am looking for.

In my current company if I have a problem with a coworker I have several avenues open, and we are a small company. I can bring it up to the supervisor of that employee, I can bring it up with the supervisor's boss, I can take it to HR, I can take it up with the two vice presidents or I can go tap on the owner's door and tell him.

When I worked for a much larger company, one that would make the TSA look like a Mom & Pop, I could go to my supervisor, take it to my manager, take it to regional, call HR, call legal, call an independent company that contracted to ours, call the vice president's office or call the president's office.

All those numbers were posted on the wall in the break room, printed in our hand book and posted on our intranet.

So what avenues are open to the TSOs?

If you are wondering why I am being persistent and will continue to be persistent until I get an answer, I will tell you.

I figure with 40+k TSOs there has to be a fair number of good people. Those that cringe every time a coworker abuses a traveler. Those that hate working with thieves. Those that hate working with those that compromise security instead of enhancing it.

I want to support those people. I want my airports to be safe, and I want my rights protected. The only way to do that is to rid the TSA of bad TSOs.

(b) (6)

(b) (6)

Attorney

Office of Chief Counsel

Transportation Security Administration

Phone: (571) 227(b) (6)

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email: (b) (6)

ATTORNEY-CLIENT PRIVILEGED/ATTORNEY WORK PRODUCT. This communication might contain communications between attorney and client, communications that are part of the agency deliberative process, or attorney-work product, all of which are privileged and not subject to disclosure outside the agency or to the public. Please consult with the Office of Chief Counsel before disclosing any information contained in this mail.

Kerner, Francine

From: Kerner, Francine
Sent: Friday, March 21, 2008 5:44 PM
To: (b) (6) <OCC>

Anonymous said...

I'd like to thank both Francine and Trollkiller for their efforts and furthering the dialog in a productive, positive way.

There is a post over in Gripes and Grins Part 2, a handicapped person that is at his wits end about abusive treatment. I'd like to see some light shed on that.

March 21, 2008 4:58 PM

Kerner, Francine

From: (b) (6) <OCC> (b) (6)
Sent: Wednesday, August 06, 2008 5:34 PM
To: Drennan, John <TSA OCC>; Kerner, Francine
Cc: Newhouse, Victoria TSA OCC; Johnson, Robert S <TSA OCC>
Subject: RE: Clarification please.

Francine/John:

I wanted to pass along some more of the background on what's been said on the Blog b/c the Blog team only sent me one post when they asked for a response. So here's an exerpt of the back and forth on the Blog which resulted in the last post by Trollkiller demanding an answer -- which was the post forwarded to us for response:

HSVTSO Dean said...
Trollkiller wrote:
I would like to know who supplied that answer. Bet it was Kip, poor Kip, bless his heart.

Haha~!

To be honest, though, I think the question might've been a bit beyond Kip. With all due respect to the Administrator of the TSA, it's just not his job to understand and spout legalese.

Given the nature of the question to be answered, and the fact that Bob gave kudos to the Office of Chief Counsel, I'm gonna guess it was either Francine or one of her people that pulled this one up.

For those that are new to the Blog or just don't know, Francine is, of course, Chief Counsel for the TSA, and the author of the old thread "And Now, a Word from our Lawyers..." from back in February.

I like my technicality, too. At least it's something a little more tangible than "it didn't use that specific word," though as with many things that Gilmore v. Gonzalez has shown us, little details like that matter in the legal limelight.

Though, just to bring up Gilmore again, I still think they could've had a more compelling decision on the due process complaint other than throwing it out on grounds that it's not their jurisdiction.

Granted, it worked in terms of the government's defense case, but it's not a very inspiring and debate-ending answer like how they addressed the freedom of travel complaint.

Trollkiller said...
HSVTSO Dean said...

To be honest, though, I think the question might've been a bit beyond Kip. With all due respect to the Administrator of the TSA, it's just not his job to understand and spout legalese.

It may not be Kip's job but he did graduate a JD so the legelese should not be foreign to him.

I hope that was not from the Chief Counsel's Office because that was some pretty lame lawyering.

The only way I can see that they came up with that answer, after my very specific questions, is if the Blog Team was prevented from showing the original question.

The rabbit trail of laws they cited did nothing to strengthen their case and the fact that they completely omitted any reference to the definition of the sterile area, the KEY to my argument, leads me to believe they were fed a very sanitized version of the question.

Blogger Bob can rest easy for a while, I am heading to bed.

August 5, 2008 6:19 AM

Trollkiller said...
Someone at the TSA wrote...

There is no conflict to reconcile. It is true that 49 C.F.R Section 1540.5 describes screening functions and screening locations in terms of the inspection of individuals and property for weapons, explosives, and incendiaries. However, 49 C.F.R. Section 1540.105(a)(2) doesn't use the word 'screening' at all. Section 1540.105(a)(2) simply states that persons may not enter the sterile area without complying with the systems, measures, or procedures being applied to control access to that area. TSA's identification requirement is one such system, measure or procedure that is used to determine who is permitted to access the sterile area.

I was going to rebut this "answer" in one all encompassing post. Instead I decided to break down the rebuttal in to smaller chunks for readability.

First let me say I know Blogger Bob did not write this "answer" as it lacks his style, wit and intelligence. On with the show.

C.F.R. 49 § 1540.105 Security responsibilities of employees and other persons.

(a) No person may:

(2) Enter, or be present within, a secured area, AOA, SIDA or sterile area without complying with the systems, measures, or procedures being applied to control access to, or presence or movement in, such areas.

Ok I will bite, what is the forced ID verification? Is it a "system", "measure" or "procedure"?

Not that it matters because C.F.R. 49 § 1540.5 describes in very clear language what systems, measures or procedures are to be used to grant access to the sterile area.

C.F.R. 49 § 1540.5

Sterile area means a portion of an airport defined in the airport security program that provides passengers access to boarding aircraft and to which the access generally is controlled by TSA, or by an aircraft operator under part 1544 of this chapter or a foreign air carrier under part 1546 of this chapter, through the screening of persons and property.

This law clearly states access generally is controlled by TSA THROUGH the screening of persons and property.

I find it very interesting that the "answer" failed to address this definition. You can not disregard a portion of the law you don't like.

This definition is a very important part of the law as it defines what the TSA is allowed to do in order to grant access to a sterile area.

The TSA is allowed by this definition to enact any procedure, system or measure that inspects or searches for weapons, explosives, and incendiaries. A forced ID verification does NOT search for weapons, explosives, and incendiaries and therefore is disallowed under this definition.

Please reconcile the forced ID verification in light of THIS definition.

August 5, 2008 2:40 PM

Trollkiller said...
Will someone at the TSA PLEASE, I am begging here, please reconcile the new forced ID verification with the following sections of 49 C.F.R. § 1540.5? Your original answer is lacking any reference to the definition of a sterile area, the main area of contention.

I would really like help putting this issue to rest.

49 C.F.R. § 1540.5

Sterile area means a portion of an airport defined in the airport security program that provides passengers access to boarding aircraft and to which the access generally is controlled by TSA, or by an aircraft operator under part 1544

of this chapter or a foreign air carrier under part 1546 of this chapter, through the screening of persons and property.

Screening function means the inspection of individuals and property for weapons, explosives, and incendiaries.

August 6, 2008 1:55 PM

-----Original Message-----
From: (b) (6) <OCC>
Sent: Wednesday, August 06, 2008 5:08 PM
To: Drennan, John <TSA OCC>; 'Kerner, Francine'
Cc: Newhouse, Victoria TSA OCC; Johnson, Robert S <TSA OCC>
Subject: RE: Clarification please.

Francine:

I just received a request from the Blog team to respond to a post from Trollkiller:

Trollkiller said...
Will someone at the TSA PLEASE, I am begging here, please reconcile the new forced ID verification with the following sections of 49 C.F.R. § 1540.5? Your original answer is lacking any reference to the definition of a sterile area, the main area of contention.

I would really like help putting this issue to rest.

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Screening function means the inspection of individuals and property for weapons, explosives, and incendiaries.

August 6, 2008 1:55 PM

-----Original Message-----
From: Drennan, John <TSA OCC>
Sent: Wednesday, August 06, 2008 5:03 PM
To: 'Kerner, Francine'
Cc: (b) (6) <OCC>
Subject: FW: Clarification please.

fyi

-----Original Message-----
From: (b) (6) <OCC>
Sent: Wednesday, August 06, 2008 4:51 PM
To: Drennan, John <TSA OCC>; Newhouse, Victoria <TSA OCC>; Johnson, Robert S <TSA OCC>
Subject: RE: Clarification please.

(b) (5) Please let me know when Francine approves it and I will pass it on to the Blog team.

-----Original Message-----
From: Drennan, John <TSA OCC>
Sent: Wednesday, August 06, 2008 4:46 PM
To: (b) (6) <OCC>; Newhouse, Victoria <TSA OCC>; Johnson, Robert S <TSA OCC>
Subject: FW: Clarification please.

fyi

-----Original Message-----
From: Drennan, John <TSA OCC>
Sent: Wednesday, August 06, 2008 3:31 PM
To: Kerner, Francine; List-Counsel-Deputies
Subject: RE: Clarification please.

Not sure what he is getting at, but maybe we could say something like the following:

(b) (5)

-----Original Message-----
From: Kerner, Francine
Sent: Wednesday, August 06, 2008 3:05 PM
To: List-Counsel-Deputies
Subject: Fw: Clarification please.

----- Original Message -----
From: (b) (6)
To: Kerner, Francine <(b) (6)>
Sent: Wed Aug 06 14:33:20 2008
Subject: Clarification please.

Dear Francine,

Thank you for the response to the blog's top ten questions. Unfortunately the response to the forced ID verification did not address the main issue. I blame this on the fact your office most likely received a very sanitized and generalized version of the question. In an effort to clear this issue I will ask the question.

In C.F.R. 49 § 1540.5 the definition of a sterile area clearly states the TSA generally controls access to the sterile area through screening. As far as I can see this does not allow for a forced ID verification, as a normal criterion for granting access to the sterile area, as it does not inspect for weapons, explosives and incendiaries. How does the TSA reconcile the forced ID verification with the definition of a sterile area?

C.F.R. 49 § 1540.5
Sterile area means a portion of an airport defined in the airport security program that provides passengers access to boarding aircraft and to which the access generally is controlled by TSA, or by an aircraft operator under part 1544 of this chapter or a foreign air carrier under part 1546 of this chapter, through the screening of persons and property.

C.F.R. 49 § 1540.5
Screening function means the inspection of individuals and property for weapons, explosives, and incendiaries.

I thank you in advance for your reply.

Sincerely
(b) (6)

Kerner, Francine

From: Kerner, Francine
Sent: Thursday, August 07, 2008 7:16 PM
To: (b) (6)
Subject: Re: Clarification please.

Dear (b) (6)

It is nice to hear from you. I will attempt to answer your questions. From my perspective, in considering these matters, we need to go back to first principles: what security goals are we trying to achieve? One goal is to ensure that bad things are kept out of the sterile area. Another goal is to ensure that known or suspected terrorists are kept out of the secure areas of the airport and off airplanes. (From TSA's vantage point a terrorist should not be permitted access to the aviation transportation system to plot, plan or carry out criminal acts under any circumstances.)

To achieve the first goal, keeping out bad things, we perform a physical examination of passengers, employees and other individuals who enter secure areas of the airport. We also perform a physical examination of their property. Sometimes these security measures take place at the checkpoint. Sometimes they take place at other entrances to the airport.

To achieve the second goal, prohibiting entry by known or suspected terrorists (regardless of what they are carrying), we perform or cause others to perform an identity check against government databases. Identity vetting of airport or airline employees is a rigorous process that is based on a collection of fingerprints, a criminal history records check, and a security threat assessment.

Of obvious necessity, identity vetting of passengers is handled differently. I think of it as a two-step process, a responsibility shared between the air carriers and TSA. The air carriers compare a passenger's name to government watch-lists, while TSA ensures that the name provided to a carrier, as reflected on the boarding pass, matchs the ID that the passenger is carrying.

It is instructive to note that before September 11, under government directive, air carriers were required to check a passenger's name against government watch-lists and confirm a passenger's identity by examining specified forms of identification.

Over the last year or more, TSA has taken over the identity verification process, stationing TSOs before the checkpoint to perform this function. More recently, TSA has determined that passengers who fail to show ID must otherwise assist in confirming their identity before being permitted sterile area entry.

All of these steps have been taken to improve aviation security. Real ID and Secure Flight are other government programs that will continue to strengthen the identity vetting process.

I firmly believe that TSA's protocols are warranted from a security perspective and, for the reasons set out in TSA's blog, entirely legal. I hope my response furthers the dialogue on these important issues. Thank you again for raising your concerns.

Regards,
Francine Kerner

----- Original Message -----
From: (b) (6)
To: Kerner, Francine (b) (6) >
Sent: Wed Aug 06 14:33:20 2008
Subject: Clarification please.

Dear Francine,

Thank you for the response to the blog's top ten questions. Unfortunately the response to the forced ID verification did not address the main issue. I blame this on the fact your office most likely received a very sanitized and generalized version of the question. In an effort to clear this issue I will ask the question.

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C.F.R. 49 § 1540.5
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C.F.R. 49 § 1540.5
Screening function means the inspection of individuals and property for weapons, explosives, and incendiaries.

I thank you in advance for your reply.

Sincerely
(b) (6)

Kerner, Francine

From: Thompson, Mardi <TSA OCC>
Sent: Thursday, August 07, 2008 7:47 AM
To: Vente, Robert <TSA OCC>; Drennan, John <TSA OCC>; Kerner, Francine; List-Counsel-Deputies
Subject: RE: Clarification please.

(b) (5) [redacted]

(b) (5) [redacted]

Mardi Ruth Thompson
Deputy Chief Counsel for Regulations
Transportation Security Administration
Department of Homeland Security
Phone: 571-227-(b) (6)
Internet: (b) (6) [redacted]

ATTORNEY-CLIENT PRIVILEGED/ATTORNEY WORK PRODUCT

THIS COMMUNICATION MIGHT CONTAIN COMMUNICATIONS BETWEEN ATTORNEY AND CLIENT, COMMUNICATIONS THAT ARE PART OF THE AGENCY DELIBERATIVE PROCESS, OR ATTORNEY-WORK PRODUCT, ALL OF WHICH ARE PRIVILEGED AND NOT SUBJECT TO DISCLOSURE OUTSIDE THE AGENCY OR TO THE PUBLIC. PLEASE CONSULT WITH THE OFFICE OF CHIEF COUNSEL BEFORE DISCLOSING ANY INFORMATION CONTAINED IN THIS E-MAIL.

From: Vente, Robert <TSA OCC>
Sent: Wednesday, August 06, 2008 10:57 PM
To: Drennan, John <TSA OCC>; Kerner, Francine; List-Counsel-Deputies
Subject: RE: Clarification please.

John -

(b) (5) [redacted]

Bob

From: Drennan, John <TSA OCC>
Sent: Wed 8/6/2008 3:30 PM
To: Kerner, Francine; List-Counsel-Deputies
Subject: RE: Clarification please.

Not sure what he is getting at, but maybe we could say something like the following:

(b) (5) [redacted]

(b) (5) [redacted]

-----Original Message-----
From: Kerner, Francine
Sent: Wednesday, August 06, 2008 3:05 PM
To: List-Counsel-Deputies
Subject: Fw: Clarification please.

----- Original Message -----
From: (b) (6) [redacted]
To: Kerner, Francine (b) (6) [redacted]
Sent: Wed Aug 06 14:33:20 2008
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Sincerely
(b) (6) [redacted]

Kerner, Francine

From: Kerner, Francine
Sent: Thursday, August 07, 2008 7:22 PM
To: (b) (6)
Subject: Fw: Clarification please.

(b) (5)

----- Original Message -----
From: Kerner, Francine
To: (b) (6)
Sent: Thu Aug 07 19:15:44 2008
Subject: Re: Clarification please.

Dear (b) (6)

It is nice to hear from you. I will attempt to answer your questions. From my perspective, in considering these matters, we need to go back to first principles: what security goals are we trying to achieve? One goal is to ensure that bad things are kept out of the sterile area. Another goal is to ensure that known or suspected terrorists are kept out of the secure areas of the airport and off airplanes. (From TSA's vantage point a terrorist should not be permitted access to the aviation transportation system to plot, plan or carry out criminal acts under any circumstances.)

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Of obvious necessity, identity vetting of passengers is handled differently. I think of it as a two-step process, a responsibility shared between the air carriers and TSA. The air carriers compare a passenger's name to government watch-lists, while TSA ensures that the name provided to a carrier, as reflected on the boarding pass, matchs the ID that the passenger is carrying.

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Francine Kerner

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In C.F.R. 49 § 1540.5 the definition of a sterile area clearly states the TSA generally controls access to the sterile area through screening. As far as I can see this does not allow for a forced ID verification, as a normal criterion for granting access to the sterile area, as it does not inspect for weapons, explosives and incendiaries. How does the TSA reconcile the forced ID verification with the definition of a sterile area?

C.F.R. 49 § 1540.5
Sterile area means a portion of an airport defined in the airport security program that provides passengers access to boarding aircraft and to which the access generally is controlled by TSA, or by an aircraft operator under part 1544 of this chapter or a foreign air carrier under part 1546 of this chapter, through the screening of persons and property.

C.F.R. 49 § 1540.5
Screening function means the inspection of individuals and property for weapons, explosives, and incendiaries.

I thank you in advance for your reply.

Sincerely
(b) (6) [redacted]

Kerner, Francine

From: (b) (6)
Sent: Monday, September 15, 2008 4:04 PM
Subject: TSA Caught on the Web - 09.15.08

Attachments: Picture (Metafile); Picture (Metafile); Picture (Metafile)

TSA Caught on the Web



TSA and the World

"Illegal" foreign planes in airspace a worry
The Times of India
NEW DELHI: Many foreign-registered aircraft are making unrestricted flights in Indian airspace without the knowledge of the country's security establishment. The startling finding came to light during the Customs department's ongoing investigation in the Rs 9,000 crore aircraft scam.

Passengers "Look for Efficient Airport Security"
HolidayHypermarket.co.uk
Security measures at airports are supported by all passengers despite recent calls from airlines that policies should be relaxed, an industry body has suggested.

Airport in Papau, Indonesia, resumes operation after a bomb blast
China View
JAKARTA, Sept. 15 (Xinhua) -- An Indonesian international airport in Timika of Papua province was back to normal operation under a tight security after a bomb explosion on Sunday night near the airport, a paper reported Monday.



Who's Talkin' TSA

TSA security: enough, too much, or not enough?
Trollkiller's World
Blogger Bob posted a feel good retrospective piece on why he joined the TSA. Several posters including Blogger Bob indicate, in their opinion, the world and this country changed on September 11, 2001.
I disagree with that sentiment. In this world's history dating back to Adam and Eve, there have always been good guys and bad guys, heroes and cowards, patriots and appeasers.

Plofker, Howard <TSA OCC>

From: (b) (6) <OCC>
Sent: Monday, March 10, 2008 10:14 AM
To: (b) (6) <TSA OCC>
Subject: FW: Francine's post

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email: (b) (6)

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-----Original Message-----
From: (b) (6) <TSA OCC>
Sent: Friday, March 07, 2008 1:40 PM
To: (b) (6)
Cc: (b) (6) <OCC>; Kerner, Francine
Subject: FW: Francine's post

Hi (b) (6)
Francine sent me the post from last night - see below. Can you make sure it gets posted today? Thanks so much!

(b) (6)

-----Original Message-----
From: Kerner, Francine
Sent: Friday, March 07, 2008 1:33 PM
To: (b) (6) <TSA OCC>
Subject:

(b) (5)

(b) (5)

Plofker, Howard <TSA OCC>

From: (b) (6) <OCC> (b) (6)
Sent: Tuesday, March 11, 2008 12:16 PM
To: (b) (6)
Subject: Re: comment

Thanks! I appreciate your help bc (b) (5)

----- Original Message -----
From (b) (6) <TSA OCC> (b) (6) >
To: (b) (6) <OCC> (b) (6) >
Sent: Tue Mar 11 12:07:15 2008
Subject: RE: comment

(b) (5)

(b) (6)
Attorney-Advisor
Office of Chief Counsel
Transportation Security Administration
571-227-(b) (6)

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From: (b) (6) <OCC> [mailto (b) (6)
Sent: Tuesday, March 11, 2008 11:31 AM
To: (b) (6) <TSA OCC>
Subject: comment

Let me know what you think about this:

(b) (5)

(b) (5)

(b) (5)

(b) (6)

(b) (6)

Attorney

Office of Chief Counsel

Transportation Security Administration

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Plofker, Howard <TSA OCC>

From: (b) (6) <OCC>
Sent: Tuesday, March 11, 2008 10:24 PM
To: (b) (6) <TSA OCC>
Subject: Re: Civil Penalties Blog Post

(b) (5)

----- Original Message -----
From: (b) (6) <TSA OCC>
To: (b) (6) <OCC>
Cc: Johnson, Robert S <TSA OCC>; '(b) (6) <TSA OCC>' (b) (6) Plofker, Howard <TSA OCC>
Sent: Tue Mar 11 21:29:20 2008
Subject: RE: Civil Penalties Blog Post

(b) (6)

(b) (5)

Thanks
(b) (6)

From: (b) (6) <OCC>
Sent: Tue 3/11/2008 1:07 PM
To: (b) (6) <TSA OCC>
Cc: Johnson, Robert S <TSA OCC>; '(b) (6) <TSA OCC>'; Plofker, Howard <TSA OCC>
Subject: Civil Penalties Blog Post

(b) (6) (b) (5) FYI, "Trollkiller" is the name of the blogger that has brought the document discrepancy to our attention. In the blog world, when you type "@ trollkiller," it means you are directing your comment as a response to something that person has blogged about earlier. (You may already know this-but I've only recently been educated about these things!!)

Once I have your edits, I'll send this to Francine for her approval.

Thanks,

(b) (6)

(b) (6)

Attorney

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Plofker, Howard <TSA OCC>

From: (b) (6) <OCC>
Sent: Wednesday, March 12, 2008 5:06 PM
To: (b) (6)
Subject: FYI

Francine said...

@ Trollkiller: Thanks for finding an old document on our website that contained the wording "non-physical contact" when "non-physical" "interference" is the correct wording. I've checked with our IT folks and it looks like the document with the incorrect wording is an older document from July of 2004 that was not prepared by an attorney and was not removed from the website when the website was updated in 2006. The official Enforcement Sanction Guidance Policy was last updated in March 2007 by my office and is the document to which I was referring. The discrepancy between the two documents was discovered as a result of your post. The older document has now been removed from the website to avoid further confusion. Great work!

To all of you out there who are interested in posts about legal issues that affect TSA, I am working on some interesting posts for the future. Please stay tuned...

March 12, 2008 5:02 PM

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Plofker, Howard <TSA OCC>

From: Kerner, Francine
Sent: Wednesday, March 12, 2008 5:11 PM
To: (b) (6) <OCC>
Subject: RE: Blog Comment re: sanction guidance

good. (b) (5)

Francine J. Kerner
Chief Counsel
Transportation Security Administration
Telephone: (571) 227-(b) (6)
Cell phone: (b) (6)
Pager: (b) (6)
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From: (b) (6) <OCC>
Sent: Wednesday, March 12, 2008 5:07 PM
To: Kerner, Francine
Cc: '(b) (6) <TSA OCC>'
Subject: RE: Blog Comment re: sanction guidance

I just went into the site and published your comment. It went through this time...yay!!

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From: Kerner, Francine
Sent: Wednesday, March 12, 2008 4:44 PM
To: (b) (6) <OCC>
Cc: (b) (6) <TSA OCC>'; (b) (6) <TSA OCC>
Subject: RE: Blog Comment re: sanction guidance

Good to go. . .

Francine J. Kerner
Chief Counsel
Transportation Security Administration
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From: (b) (6) <OCC>
Sent: Wednesday, March 12, 2008 4:05 PM
To: Kerner, Francine
Cc: (b) (6) <TSA OCC>'; (b) (6) <TSA OCC>
Subject: RE: Blog Comment re: sanction guidance

(b) (5)

(b) (5)

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From: Kerner, Francine
Sent: Wednesday, March 12, 2008 3:51 PM
To: (b) (6) <OCC>
Subject: RE: Blog Comment re: sanction guidance

(b) (5)

Francine J. Kerner
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From: (b) (6) <OCC>
Sent: Wednesday, March 12, 2008 3:27 PM
To: Kerner, Francine
Cc: (b) (6) <TSA OCC>; (b) (6) <TSA OCC>'
Subject: Blog Comment re: sanction guidance

Francine: (b) (5)

(b) (5)

(b) (5) [redacted]

(b) (5) [redacted]

(b) (6) [redacted]
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Plofker, Howard <TSA OCC>

From: (b) (6) <OCC>
Sent: Thursday, March 13, 2008 8:49 AM
To: (b) (6) <TSA OCC>
Subject: RE: Blog Question

That's actually not her first. I think this is the third one she's done.

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From: (b) (6) <TSA OCC>
Sent: Thursday, March 13, 2008 8:48 AM
To: (b) (6) <OCC>
Subject: RE: Blog Question

That's it. Thanks. The language sounded like it came from our office, but that was the first post I had seen from her.

From: (b) (6) <OCC>
Sent: Thursday, March 13, 2008 8:47 AM
To: (b) (6) <TSA OCC>
Subject: RE: Blog Question

If you're talking about her post where she thanks Trollkiller for pointing out that we had an incorrect civil enforcement guidance doc on the website...yes.

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From: (b) (6) <TSA OCC>
Sent: Thursday, March 13, 2008 8:46 AM
To: (b) (6) <OCC>
Subject: Blog Question

(b) (6)

Is that really Francine on the March 12th posting on "Why we do what we do?"

(b) (6)

Office of Chief Counsel/Enforcement
Transportation Security Administration
Department of Homeland Security
571-227-(b) (6) (office)

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Plofker, Howard <TSA OCC>

From: (b) (6) <OCC>
Sent: Wednesday, March 19, 2008 10:02 AM
To: (b) (6)
Subject: Francine's comment

Lynn:

Can you post this on the rumor alert: conflict of interest at TSA post for Francine? She posted it last night on older post and I want to post it on this newer post b/c the whistleblower issue was brought up there as well. Thanks!

Francine said...

@Trollkiller, you asked about whistleblower rights for TSOs. We agree that good government requires protecting whistleblowers from reprisal. A TSO who reports a violation of any law, rule or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety has a right to be protected from retaliation. In 2002, the first year of TSA's existence, the head of TSA entered into a written agreement with the Office of Special Counsel, the government agency that has primary responsibility for protecting whistleblowers from reprisal. Under the TSA/OSC agreement, OSC receives, investigates and recommends resolution of complaints from TSOs alleging reprisal for protected whistleblowing. Since May 2002, when the agreement was signed, I am not aware of any case in which OSC has determined that a TSO suffered retaliation for whistleblowing. Under TSA's Human Resource Management Letter No. 1800-01, which was issued in November 2002, TSA's whistleblower protection policy protects TSOs from the same prohibited personnel practices barred elsewhere in the federal government. In order to further strengthen TSO whistleblower protections, this year, in February 2008, TSA entered into an agreement with the Merit Systems Protection Board. The independent administrative judges at MSPB evaluate claims of reprisal against whistleblowers. Under the TSA/MSPB agreement, a TSO will be able to ask an MSPB judge to render a decision on whether threatened or proposed disciplinary action against the TSO is a reprisal for his or her whistleblowing. If the MSPB judge decides the TSO is the victim of a reprisal, TSA will take corrective action. As you point out, a TSO will not be able to appeal an unfavorable MSPB decision to federal court. Congress would have to pass a new law granting TSOs the right to appeal MSPB decisions to federal court. That's because Congress gave TSA special personnel authority to handle a large and dynamic TSO workforce and that special authority does not permit TSO personnel actions to be appealed to any court. Thanks for your comments. I've enjoyed reading your contributions.

March 18, 2008 6:23 PM

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Plofker, Howard <TSA OCC>

From: (b) (6) <OCC> <(b) (6)>
Sent: Thursday, March 20, 2008 10:35 AM
To: (b) (6) <TSA OCC>
Subject: FW:
Attachments: image001.gif

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From: (b) (6) <OCC>
Sent: Thursday, March 20, 2008 10:34 AM
To: (b) (6) <TSA OCC>
Subject:

More:

Anonymous said...

@Trollkiller:

I don't understand why it would be difficult to explain the avenues TSOs have open to report abuse, gross mismanagement, or safety issues.

It's not difficult. The process for posting a Francine-quality response just takes time. Requests from the blog go from Public Affairs to the subject matter experts, who take time from their other work to research and draft a response, back to public affairs, to a busy Office of Chief Counsel to ensure the response is legally correct, (often) back through the pipes with changes, and then finally to the bloggers to publish. Remember that every TSA post (as opposed to ad hoc comment responses) are treated as statements of agency policy.

This goes back to an earlier comment about blog readers' expectations of when a TSA answer should come. If you look at the time from request to response as currency, you'll get what you paid for.

March 20, 2008 9:20 AM

Anonymous said...

@Trollkiller:

If (b) (6) *is any indication it would be 100+ days before I would receive it.*

Sure the FOIA process is backlogged, but that doesn't mean you shouldn't use it. Most responses go out relatively quickly. You can submit a FOIA here (the foia@dhs.gov address was wrong), BTW).

March 20, 2008 9:26 AM

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Plofker, Howard <TSA OCC>

From: Plofker, Howard <TSA OCC>
Sent: Thursday, May 15, 2008 9:21 AM
To: (b) (6) <OCC>; (b) (6) <TSA OCC>; (b) (6)
Subject: Re: Trollkiller's post

(b) (5)

Howard Plofker
(via BlackBerry)

----- Original Message -----
From: (b) (6) <OCC>
To: Plofker, Howard <TSA OCC>; (b) (6) <TSA OCC>; (b) (6) <TSA OCC>' (b) (6) >
Sent: Thu May 15 09:15:02 2008
Subject: Trollkiller's post

Trollkiller said...

Anonymous said...

What about people with different kinds of bodies (transgender, intersex, etc)? What are you doing to protect this vulnerable population from the ignorance of your agents?

Am I going to be having to explain to the TSA why I have no dick but look like a man? You want me to pull out my fake dick in front of everyone and put it on the belt? Or would you rather I left it in my pants and had the person behind the wall call me aside to explain why I had some object 'hidden' in my jockstrap.

Are my transgender sisters going to have to explain why they have a dick but are beautiful women? Do you want the women who've had breast cancer and lost their breasts in the process to pull out their falsies right there in line?

Don't you think I have enough to suffer through without having to explain my non-normative gender/body to someone who is carrying a weapon and thinks I'm a terrorist?

At least with a pat down I'm not getting a panty check, the person has to meet my eye and I can call for a supervisor if I feel like the situation is getting out of hand.

Well there you go, we can't offend the confused.

Let me help you out friend, if you have a penis you are a male. If you have a vagina you are a female. If by some sad chance you have both you are a hermaphrodite and can get the that cosmetically fixed.

I am sorry the whole world can not stop because of your psychological problems.

(b) (6)

(b) (6)

Attorney

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Plofker, Howard <TSA OCC>

From: (b) (6) <OCC> (b) (6)
Sent: Thursday, March 13, 2008 1:47 PM
To: Kerner, Francine
Cc: (b) (6) <TSA OCC>
Subject: Comment re: whistleblower protection
Attachments: image001.gif

Below is Trollkiller's response to your comment yesterday. I bring it to your attention b/c he has brought up a new legal issue (whistleblower protection) which we haven't yet tackled on the Blog:

Trollkiller said...

No problem Francine, that will be $5 please. ;-)

On a more serious note, I discovered something today that really bugs me. So much so I am staying late at work to finish this post.

It seems that up until late February, TSOs had no whistleblower protection.

From the article *"TSA and the MSPB signed an agreement to provide "enhanced whistleblower protection for TSOs," under which TSOs will -- for the first time -- be allowed to appeal cases to the MSPB.*

Previously, TSOs only could appeal to the U.S. Office of Special Counsel, which then would make a recommendation to TSA. ***However, TSA was not bound by that recommendation.***"

Also from the article *"The TSA/MSPB agreement* ***does not allow TSOs to appeal a negative decision to the federal courts, which current whistleblower protection law allows other federal workers to do.***

The agreement also allows MSPB and TSA to negotiate on the procedures governing the processing of TSO whistleblower complaints. It is imperative that MSPB issue their own regulations and not negotiate with the agency they are overseeing."

Francine, why do TSOs not have the same protection as other Govt. workers? Why is the TSA so reluctant to protect the TSOs?

If you look at the posts on this blog you will see the main issue with the screenings is not the

"silly" rules like 3-1-1 or taking your shoes off, but with TSOs bullying passengers, with TSOs stealing from passengers, or just incompetent TSOs. In other words, bad TSOs.

If the good TSOs fear for their jobs they won't turn in the corrupt dealings of the bad TSOs or managers.

I have been racking my brain trying to figure out a legitimate reason the TSA would not want the TSOs, or all their employees for that matter, to have full whistleblower protection.

Four cigarettes and endless laps around the parking lot later, and I still can't come up with a legitimate reason.

Please explain why TSOs don't have the same protection as other Govt. employees, also please explain what avenues the TSOs have available to them to turn in corrupt coworkers, and why the reluctance on the TSA's part to give them the whistleblower protection.

Thanks, I look forward to your reply.

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Plofker, Howard <TSA OCC>

From: (b) (6) <OCC> (b) (6)
Sent: Wednesday, March 19, 2008 3:30 PM
To: Kerner, Francine
Cc: (b) (6) <TSA OCC>
Subject: Response to your whistleblower comment
Attachments: image001.gif

Trollkiller said...

Thank you (b) (6) for posting Francine's reply.

Francine, I am glad you are enjoying my posts and I thank you for your replies.

I have a follow up question. When the law was written, was the ability for the TSOs to appeal to a federal court barred or just not included? In other words does the law say "TSA employees can not appeal to a federal court" or does the law say "TSA employees can appeal only by these methods" and thereby leaving out the court option.

Second follow up for you or anybody else in the home office.

What avenues do TSOs have to report abuse, gross mismanagement, or safety issues?

I thank you for your time, I know you must be one busy lady.

I look forward to your reply.

March 19, 2008 2:39 PM

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Plofker, Howard <TSA OCC>

From: Plofker, Howard <TSA OCC>
Sent: Friday, March 21, 2008 3:09 PM
To: (b) (6) <OCC>; Johnson, Robert S <TSA OCC>
Subject: Blog comments

Anonymous said...

FROM THE "RUMOR ALERT" Topic:
Anonymous said (in response to Trollkiller: I don't understand why it would be difficult to explain the avenues TSOs have open to report abuse, gross mismanagement, or safety issues.)

It's not difficult. The process
for posting a Francine-quality response just takes time. Requests from the blog go from Public Affairs to the subject matter experts, who take time from their other work to research and draft a response, back to public affairs, to a busy Office of Chief Counsel to ensure the response is legally correct, (often) back through the pipes with changes, and then finally to the bloggers to publish. Remember that every TSA post (as opposed to ad hoc comment responses) are treated as statements of agency policy.

March 20, 2008 9:20 AM

AND FROM THIS TOPIC:

Bob said...
March 20, 2008 5:58 PM
(b) (6) Said: Blogger Bob, would you please comment on this? You're the one who first wrote that of course you couldn't get into the specifics of what you saw when you x-rayed the laptop.

Hi (b) (6). As (b) (6) said earlier, we are not SSI experts. it is common knowledge among the workforce that x-ray images are SSI. They can be made public (As in the shoe article) but the decision to make them public comes from a higher pay grade.

We're going to find an SSI expert to answer your questions. Stay tuned and thanks for posting...

March 20, 2008 6:10 PM

Why weren't Blogger Bob's statements originally cleared by the (SSI) subject matter experts during the "draft a response" stage?

March 20, 2008 9:03 PM

Christopher said...

Oh, anonymous…if life were only that black and white. As anyone that has read my posts and comments can attest, we're pretty free-wheeling around here. Yes, we do work with our attorneys to keep us out of serious trouble but the moderators of this blog write their own posts, comments and are even encouraged to think independently. Our lawyers have not been heavy handed or seriously edited out posts, in fact they've worked really, really well with us.

When we have a guest blogger like Keith Kauffman, our intel chief, or if bloggers are asking detailed, legal questions that Francine Kerner is best qualified to answer, you bet they're careful about what they say and how they say it. You would be too if your every consonant and syllable were scrutinized and dissected. It's a balancing act between being conversational and providing detailed answers to very detailed questions that will help the public understand why we do what we do.

With that in mind, the moderators don't wordsmith subject matter experts either, we just don't. When you read something that says written by Kip Hawley, it was actually penned by Kip Hawley.

I'll end with a quick roll call of the moderators:

(b) (6) security officer and behavior detection officer
(b) (6) intel analyst
(b) (6) professional pilot evaluator and all-around creative thinker
Jay: federal security director
Christopher: obligatory PR guy

As you can see, we're not exactly a room full of PR people here.

Christopher

EOS Blog Team

March 20, 2008 9:34 PM

Howard Plofker
Office of Chief Counsel
Transportation Security Administration
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(b) (6) (BlackBerry)
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FILE: 600.1

Is it worth a tree to print me?

Plofker, Howard <TSA OCC>

From: (b) (6) <OCC>
Sent: Thursday, March 13, 2008 8:44 AM
To: (b) (6) <TSA OCC>
Cc: Johnson, Robert S <TSA OCC>; '(b) (6) <TSA OCC>'; Plofker, Howard <TSA OCC>; (b) (6) <TSA OCC>
Subject: RE: Civil Penalties Blog Post

Thanks, (b) (6) Once (b) (6) takes a look I will send this to Francine.

(b) (6)
Attorney
Office of Chief Counsel
Transportation Security Administration
Phone: (571) 227-(b) (6)
Cell: (b) (6)
Fax: (571) 227-1381
email: (b) (6)

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From: (b) (6) <TSA OCC>
Sent: Wednesday, March 12, 2008 11:50 PM
To: (b) (6) <OCC>
Cc: Johnson, Robert S <TSA OCC>; '(b) (6) <TSA OCC>'; Plofker, Howard <TSA OCC>; (b) (6) TSA OCC>
Subject: RE: Civil Penalties Blog Post

(b) (6)

Attached are my proposed edits to the blog on civil penalties. (b) (5)

(b) (6) please take a look and see if I have mischaracterized anything about the NOV process.

Thanks
(b) (6)

From: (b) (6) <OCC>
Sent: Tue 3/11/2008 1:07 PM

To: (b) (6) <TSA OCC>
Cc: Johnson, Robert S <TSA OCC>; '(b) (6) <TSA OCC>'; Plofker, Howard <TSA OCC>
Subject: Civil Penalties Blog Post

(b) (6) (b) (5) FYI, "Trollkiller" is the name of the blogger that has brought the document discrepancy to our attention. In the blog world, when you type "@ trollkiller," it means you are directing your comment as a response to something that person has blogged about earlier. (You may already know this-but I've only recently been educated about these things!!)

Once I have your edits, I'll send this to Francine for her approval.

Thanks,

(b) (6)
Attorney
Office of Chief Counsel
Transportation Security Administration
Phone: (571) 227-(b) (6)
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Fax: (571) 227-1381
email: (b) (6)

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Dear Francine,

Thank you for the response to the blog's top ten questions. Unfortunately the response to the forced ID verification did not address the main issue. I blame this on the fact your office most likely received a very sanitized and generalized version of the question. In an effort to clear this issue I will ask the question.

In C.F.R. 49 § 1540.5 the definition of a sterile area clearly states the TSA generally controls access to the sterile area through screening. As far as I can see this does not allow for a forced ID verification, as a normal criterion for granting access to the sterile area, as it does not inspect for weapons, explosives and incendiaries. How does the TSA reconcile the forced ID verification with the definition of a sterile area?

C.F.R. 49 § 1540.5
Sterile area means a portion of an airport defined in the airport security program that provides passengers access to boarding aircraft and to which the access generally is controlled by TSA, or by an aircraft operator under part 1544 of this chapter or a foreign air carrier under part 1546 of this chapter, through the screening of persons and property.

C.F.R. 49 § 1540.5
Screening function means the inspection of individuals and property for weapons, explosives, and incendiaries.

I thank you in advance for your reply.

Sincerely
(b) (6)

Plofker, Howard <TSA OCC>

From: (b) (6) <OCC>
Sent: Wednesday, March 19, 2008 11:26 AM
To: '(b) (6) <TSA OCC>'
Subject: FW: "Potpourri" post

I just realized I forgot to cc you on the original email. Sorry!

(b) (6)
Attorney
Office of Chief Counsel
Transportation Security Administration
Phone: (571) 227-(b) (6)
Cell: (b) (6)
Fax: (571) 227-1381
email: (b) (6)

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-----Original Message-----
From: Kerner, Francine
Sent: Wednesday, March 19, 2008 9:57 AM
To: (b) (6) <OCC>
Subject: Re: "Potpourri" post

Okay. (b) (5)

----- Original Message -----
From: (b) (6) <OCC>
To: Kerner, Francine
Sent: Wed Mar 19 09:54:21 2008
Subject: RE: "Potpourri" post

Not yet. (b) (5)

Trollkiller said...
To Christopher:

I hope the TSA issued you some fire proof clothing when they tapped you for this blog, because you are taking some heat my friend.

So who was the DHS Attaché to the United Kingdom before Mr. Restovich?

What kind of security consulting did 2M engage in? (The answer to this could quickly end the question about conflict of interest)

By the way, I am still waiting on answers to the following questions.

Why do the TSOs not have full whistle blower protection?

What avenues do the TSOs have open to them to report the abusive acts of coworkers or managers?

(b) (6)
[redacted]
Attorney
Office of Chief Counsel
Transportation Security Administration
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email: (b) (6)

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-----Original Message-----
From: Kerner, Francine
Sent: Wednesday, March 19, 2008 9:42 AM
To: (b) (6) <OCC>
Subject: Re: "Potpourri" post

Has there been any reaction to my comment?

Non-Responsive

Plofker, Howard <TSA OCC>

From: Book, Heather <TSA OCC>
Sent: Thursday, March 20, 2008 10:22 AM
To: (b) (6) <OCC>
Subject: RE: More responses to your whistleblower comment

Thanks - this will help.

Heather Sigrist Book
Assistant Chief Counsel (Employment Litigation) Transportation Security Administration Office of Chief Counsel, TSA-2
601 South 12th Street, (b) (6)
Arlington, VA 22202
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-----Original Message-----
From: (b) (6) <OCC>
Sent: Thursday, March 20, 2008 10:21 AM
To: Book, Heather <TSA OCC>; Osler, Bonnie <TSA OCC>
Subject: RE: More responses to your whistleblower comment

Below is Francine's whistleblower comment which may be helpful w/ your response:

@Trollkiller: You asked about whistleblower rights for TSOs.

We agree that good government requires protecting whistleblowers from reprisal. A TSO who reports a violation of any law, rule or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety has a right to be protected from retaliation.

In 2002, the first year of TSA's existence, the head of TSA entered into a written agreement with the Office of Special Counsel, the government agency that has primary responsibility for protecting whistleblowers from reprisal. Under the TSA/OSC agreement, OSC receives, investigates and recommends resolution of complaints from TSOs alleging reprisal for protected whistleblowing. Since May 2002, when the agreement was signed, I am not aware of any case in which OSC has determined that a TSO suffered retaliation for whistleblowing.

Under TSA's Human Resource Management Letter No. 1800-01, which was issued in November 2002, TSA's whistleblower protection policy protects TSOs from the same prohibited personnel practices barred elsewhere in the federal government. In order to further strengthen TSO whistleblower protections, this year, in February 2008, TSA entered into an agreement with the Merit Systems Protection Board. The independent administrative judges at MSPB evaluate claims of reprisal against whistleblowers.

Under the TSA/MSPB agreement, a TSO will be able to ask an MSPB judge to render a decision on whether threatened or proposed disciplinary action against the TSO is a reprisal for his or her whistleblowing. If the MSPB judge decides the TSO is the victim of a reprisal, TSA will take corrective action. As you point out, a TSO will not be able to appeal an unfavorable MSPB decision to federal court. Congress would have to pass a new law granting TSOs the right to appeal MSPB decisions to federal court. That's because Congress gave TSA special personnel authority to handle a large and dynamic TSO workforce and that special authority does not permit TSO personnel actions to be appealed to any court.

Thanks for your comments. I've enjoyed reading your contributions.

-Francine

March 19, 2008 10:54 AM

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-----Original Message-----
From: Book, Heather <TSA OCC>
Sent: Thursday, March 20, 2008 9:33 AM
To: Kerner, Francine; Osler, Bonnie <TSA OCC>; (b) (6) <OCC>
Subject: RE: More responses to your whistleblower comment

Okay - I'm available.

Heather Sigrist Book
Assistant Chief Counsel (Employment Litigation) Transportation Security Administration Office of Chief Counsel, TSA-2
601 South 12th Street, (b) (6)
Arlington, VA 22202
571-227-(b) (6)
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-----Original Message-----
From: Kerner, Francine
Sent: Thursday, March 20, 2008 9:28 AM
To: Osler, Bonnie <TSA OCC>; Book, Heather <TSA OCC>; (b) (6) <OCC>
Subject: Fw: More responses to your whistleblower comment

Heather, could use your help on this. Will talk to you when I get into the office.

----- Original Message -----
From: (b) (6) <OCC>
To: Kerner, Francine
Sent: Thu Mar 20 09:19:45 2008
Subject: More responses to your whistleblower comment

Trollkiller said...

Thank you (b) (6) for posting Francine's reply.

Francine, I am glad you are enjoying my posts and I thank you for your replies.

I have a follow up question. When the law was written, was the ability for the TSOs to appeal to a federal court barred or just not included? In other words does the law say "TSA employees can not appeal to a federal court" or does the law say "TSA employees can appeal only by these methods" and thereby leaving out the court option.

Second follow up for you or anybody else in the home office.

What avenues do TSOs have to report abuse, gross mismanagement, or safety issues?

I thank you for your time, I know you must be one busy lady.

I look forward to your reply.

March 19, 2008 2:39 PM

Anonymous said...

@trollkiller:
does the law say "TSA employees can not appeal to a federal court" or does the law say "TSA employees can appeal only by these methods" and thereby leaving out the court option.

The law is 49 USC 114(n), extending to TSA from FAA 49 USC 40122(g).

March 19, 2008 3:42 PM

Anonymous said...

@trollkiller:What avenues do TSOs have to report ... safety issues?

You may wish to FOIA
TSA MD 2400.4 Employee Reports of Unsafe/Unhealthful Working Conditions

March 19, 2008 3:56 PM

Trollkiller said...

Anonymous said...
The law is 49 USC 114(n), extending to TSA from FAA 49 USC 40122(g).

Thanks for pointing me in the right direction, but unfortunately it is a bit of a rabbit trail. Maybe you can help further by telling me where I am missing the turn.

I see where 49 USC 114(n) take you over to § 40122. Federal Aviation Administration personnel management system.

I see where 40122(h) says you have the right to contest a major adverse action by using either Guaranteed Fair Treatment or what is described in 40122 (g)(3).

40122 (g)(3) says "an employee of the Administration may submit an appeal to the Merit Systems Protection Board and may seek judicial review of any resulting final orders or decisions of the Board from any action that was appealable to the Board under any law, rule, or regulation as of March 31, 1996"

Now according to Francine the TSOs did not have the Merit Systems Protection Board to turn to until February 2008.

So either the TSA has been violating Federal law all this time or these are the wrong statutes to explain why the TSOs don't have the same protection/recourse as other Federal employees.

I even looked in TITLE 5 > PART III > Subpart A > CHAPTER 23 > § 2302. Prohibited personnel practices.
As referenced in 40122 (g)(2)(a)

I still did not find anything that would keep TSOs from being allowed to appeal to a court of law.

Francine said:
Congress would have to pass a new law granting TSOs the right to appeal MSPB decisions to federal court. That's because Congress gave TSA special personnel authority to handle a large and dynamic TSO workforce and that special authority does not permit TSO personnel actions to be appealed to any court.

So hopefully she can answer my follow up question or someone else can point me to this special personnel authority.

Once again, thank you for the attempt.

March 20, 2008 4:24 AM

Trollkiller said...

Anonymous said...

You may wish to FOIA
TSA MD 2400.4 Employee Reports of Unsafe/Unhealthful Working Conditions

If (b) (6) is any indication it would be 100+ days before I would receive it.

I don't understand why it would be difficult to explain the avenues TSOs have open to report abuse, gross mismanagement, or safety issues.

The lack of an answer to this fairly simple question confuses me. Maybe the TSA is afraid that the avenues are not sufficient or maybe they just don't understand what I am looking for.

In my current company if I have a problem with a coworker I have several avenues open, and we are a small company. I can bring it up to the supervisor of that employee, I can bring it up with the supervisor's boss, I can take it to HR, I can take it up with the two vice presidents or I can go tap on the owner's door and tell him.

When I worked for a much larger company, one that would make the TSA look like a Mom & Pop, I could go to my supervisor, take it to my manager, take it to regional, call HR, call legal, call an independent company that contracted to ours, call the vice president's office or call the president's office.

All those numbers were posted on the wall in the break room, printed in our hand book and posted on our intranet.

So what avenues are open to the TSOs?

If you are wondering why I am being persistent and will continue to be persistent until I get an answer, I will tell you.

I figure with 40+k TSOs there has to be a fair number of good people. Those that cringe every time a coworker abuses a traveler. Those that hate working with thieves. Those that hate working with those that compromise security instead of enhancing it.

I want to support those people. I want my airports to be safe, and I want my rights protected. The only way to do that is to rid the TSA of bad TSOs.

(b) (6)

(b) (6)

Attorney

Office of Chief Counsel

Transportation Security Administration

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Cell: (b) (6)

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email: (b) (6)

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Plofker, Howard <TSA OCC>

From: Book, Heather <TSA OCC>
Sent: Thursday, March 20, 2008 11:11 AM
To: Newhouse, Victoria <TSA OCC>; Dean, Juanita <TSA OCC>
Cc: (b) (6) <TSA OCC>; (b) (6) <OCC>
Subject: RE: More responses to your whistleblower comment

Sensitivity: Confidential

Great thanks

Heather Sigrist Book
Assistant Chief Counsel (Employment Litigation) Transportation Security Administration Office of Chief Counsel, TSA-2
601 South 12th Street, (b) (6)
Arlington, VA 22202
571-227-(b) (6)
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-----Original Message-----
From: Newhouse, Victoria <TSA OCC>
Sent: Thursday, March 20, 2008 11:10 AM
To: Book, Heather <TSA OCC>; Dean, Juanita <TSA OCC>
Cc: (b) (6) <TSA OCC>; (b) (6) <OCC>
Subject: Re: More responses to your whistleblower comment
Sensitivity: Confidential

Hi I am tied up in ethics training all day. I am including (b) (6) so she can review w/Juanita.

Copying (b) (6) for her awareness. Thanks.

Victoria

----- Original Message -----
From: Book, Heather <TSA OCC>
To: Newhouse, Victoria <TSA OCC>; Dean, Juanita <TSA OCC>
Sent: Thu Mar 20 11:05:08 2008
Subject: RE: More responses to your whistleblower comment

Victoria and Juanita,
Are either of you in the office today? Francine (b) (5) (see email traffic below). I addressed the fed court question and took a shot at the second question too since I was unable to locate you.
(b) (6)

Proposed response:

(b) (5)

(b) (5)

Heather Sigrist Book
Assistant Chief Counsel (Employment Litigation) Transportation Security Administration Office of Chief Counsel, TSA-2
601 South 12th Street, (b) (6)
Arlington, VA 22202
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From: (b) (6) <OCC>
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Sent: Thu Mar 20 09:19:45 2008
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I have a follow up question. When the law was written, was the ability for the TSOs to appeal to a federal court barred or just not included? In other words does the law say "TSA employees can not appeal to a federal court" or does the law say "TSA employees can appeal only by these methods" and thereby leaving out the court option.

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I want to support those people. I want my airports to be safe, and I want my rights protected. The only way to do that is to rid the TSA of bad TSOs.

(b) (6)

(b) (6)

Attorney

Office of Chief Counsel

Transportation Security Administration

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email: (b) (6)

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Plofker, Howard <TSA OCC>

From: Book, Heather <TSA OCC>
Sent: Thursday, March 20, 2008 11:18 AM
To: Kerner, Francine; (b) (6) <TSA OCC>; (b) (6) <TSA OCC>
Cc: (b) (6) <OCC>; (b) (6) <TSA OCC>; Dean, Juanita <TSA OCC>
Subject: RE: More responses to your whistleblower comment

Yes - I'll come down.

Heather Sigrist Book
Assistant Chief Counsel (Employment Litigation) Transportation Security Administration Office of Chief Counsel, TSA-2
601 South 12th Street, (b) (6)
Arlington, VA 22202
571-227-(b) (6)
571-227-1377 (fax)
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-----Original Message-----
From: Kerner, Francine
Sent: Thursday, March 20, 2008 11:18 AM
To: Book, Heather <TSA OCC>; (b) (6) <TSA OCC>; (b) (6) <TSA OCC>
Cc: (b) (6) <OCC>; (b) (6) <TSA OCC>; Dean, Juanita <TSA OCC>
Subject: RE: More responses to your whistleblower comment

Are you available now? If so, please come down . . .

Francine J. Kerner
Chief Counsel
Transportation Security Administration
Telephone: (571) 227-(b) (6)
Cell phone: (b) (6)
Pager: (b) (6)
Fax: (571) 227-2555

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-----Original Message-----
From: Book, Heather <TSA OCC>

Sent: Thursday, March 20, 2008 11:16 AM
To: Kerner, Francine; (b) (6) <TSA OCC>; (b) (6) <TSA OCC>
Cc: (b) (6) <OCC>; (b) (6) <TSA OCC>; Dean, Juanita <TSA OCC>
Subject: RE: More responses to your whistleblower comment

Francine,
I've drafted a proposed response and we are available to meet with you to discuss. Should I ask (b) (6) or (b) (6) to get us on your calendar today?

Heather Sigrist Book
Assistant Chief Counsel (Employment Litigation) Transportation Security Administration Office of Chief Counsel, TSA-2
601 South 12th Street, (b) (6)
Arlington, VA 22202
571-227-(b) (6)
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-----Original Message-----
From: Kerner, Francine
Sent: Thursday, March 20, 2008 9:28 AM
To: Osler, Bonnie <TSA OCC>; Book, Heather <TSA OCC>; (b) (6) <OCC>
Subject: Fw: More responses to your whistleblower comment

Heather, could use your help on this. Will talk to you when I get into the office.

----- Original Message -----
From: (b) (6) <OCC>
To: Kerner, Francine
Sent: Thu Mar 20 09:19:45 2008
Subject: More responses to your whistleblower comment

Trollkiller said...

Thank you(b) (6) for posting Francine's reply.

Francine, I am glad you are enjoying my posts and I thank you for your replies.

I have a follow up question. When the law was written, was the ability for the TSOs to appeal to a federal court barred or just not included? In other words does the law say "TSA employees can not appeal to a federal court" or does the law say "TSA employees can appeal only by these methods" and thereby leaving out the court option.

Second follow up for you or anybody else in the home office.

What avenues do TSOs have to report abuse, gross mismanagement, or safety issues?

I thank you for your time, I know you must be one busy lady.

I look forward to your reply.

March 19, 2008 2:39 PM

Anonymous said...

@trollkiller:
does the law say "TSA employees can not appeal to a federal court" or does the law say "TSA employees can appeal only by these methods" and thereby leaving out the court option.

The law is 49 USC 114(n), extending to TSA from FAA 49 USC 40122(g).

March 19, 2008 3:42 PM

Anonymous said...

@trollkiller:What avenues do TSOs have to report ... safety issues?

You may wish to FOIA
TSA MD 2400.4 Employee Reports of Unsafe/Unhealthful Working Conditions

March 19, 2008 3:56 PM

Trollkiller said...

Anonymous said...
The law is 49 USC 114(n), extending to TSA from FAA 49 USC 40122(g).

Thanks for pointing me in the right direction, but unfortunately it is a bit of a rabbit trail. Maybe you can help further by telling me where I am missing the turn.

I see where 49 USC 114(n) take you over to § 40122. Federal Aviation Administration personnel management system.

I see where 40122(h) says you have the right to contest a major adverse action by using either Guaranteed Fair Treatment or what is described in 40122 (g)(3).

40122 (g)(3) says "an employee of the Administration may submit an appeal to the Merit Systems Protection Board and may seek judicial review of any resulting final orders or decisions of the Board from any action that was appealable to the Board under any law, rule, or regulation as of March 31, 1996"

Now according to Francine the TSOs did not have the Merit Systems Protection Board to turn to until February 2008.

So either the TSA has been violating Federal law all this time or these are the wrong statutes to explain why the TSOs don't have the same protection/recourse as other Federal employees.

I even looked in TITLE 5 > PART III > Subpart A > CHAPTER 23 > § 2302. Prohibited personnel practices.
As referenced in 40122 (g)(2)(a)

I still did not find anything that would keep TSOs from being allowed to appeal to a court of law.

Francine said:

Congress would have to pass a new law granting TSOs the right to appeal MSPB decisions to federal court. That's because Congress gave TSA special personnel authority to handle a large and dynamic TSO workforce and that special authority does not permit TSO personnel actions to be appealed to any court.

So hopefully she can answer my follow up question or someone else can point me to this special personnel authority.

Once again, thank you for the attempt.

March 20, 2008 4:24 AM

Trollkiller said...

Anonymous said...

You may wish to FOIA
TSA MD 2400.4 Employee Reports of Unsafe/Unhealthful Working Conditions

If (b) (6) is any indication it would be 100+ days before I would receive it.

I don't understand why it would be difficult to explain the avenues TSOs have open to report abuse, gross mismanagement, or safety issues.

The lack of an answer to this fairly simple question confuses me. Maybe the TSA is afraid that the avenues are not sufficient or maybe they just don't understand what I am looking for.

In my current company if I have a problem with a coworker I have several avenues open, and we are a small company. I can bring it up to the supervisor of that employee, I can bring it up with the supervisor's boss, I can take it to HR, I can take it up with the two vice presidents or I can go tap on the owner's door and tell him.

When I worked for a much larger company, one that would make the TSA look like a Mom & Pop, I could go to my supervisor, take it to my manager, take it to regional, call HR, call legal, call an independent company that contracted to ours, call the vice president's office or call the president's office.

All those numbers were posted on the wall in the break room, printed in our hand book and posted on our intranet.

So what avenues are open to the TSOs?

If you are wondering why I am being persistent and will continue to be persistent until I get an answer, I will tell you.

I figure with 40+k TSOs there has to be a fair number of good people. Those that cringe every time a coworker abuses a traveler. Those that hate working with thieves. Those that hate working with those that compromise security instead of enhancing it.

I want to support those people. I want my airports to be safe, and I want my rights protected. The only way to do that is to rid the TSA of bad TSOs.

(b) (6)

(b) (6)

Attorney

Office of Chief Counsel

Transportation Security Administration

Phone: (571) 227-(b) (6)

Cell: (b) (6)

Fax: (571) 227-1381

email: (b) (6)

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Plofker, Howard <TSA OCC>

From: Book, Heather <TSA OCC>
Sent: Thursday, March 20, 2008 1:55 PM
To: Dean, Juanita <TSA OCC>; (b) (6) <TSA OCC>
Cc: Newhouse, Victoria <TSA OCC>; (b) (6) <OCC>
Subject: RE: More responses to your whistleblower comment

Sensitivity: Confidential

Okay - I'll send it to Francine and copy all of you. Thank you everyone.

Heather Sigrist Book
Assistant Chief Counsel (Employment Litigation) Transportation Security Administration Office of Chief Counsel, TSA-2
601 South 12th Street, (b) (6)
Arlington, VA 22202
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-----Original Message-----
From: Dean, Juanita <TSA OCC>
Sent: Thursday, March 20, 2008 1:22 PM
To (b) (6) <TSA OCC>; Book, Heather <TSA OCC>
Cc: Newhouse, Victoria <TSA OCC>; (b) (6) <OCC>
Subject: RE: More responses to your whistleblower comment
Sensitivity: Confidential

Looks good to me.

Juanita L. Dean
Assistant Chief Counsel
Employment & Civil Rights
Chief Counsel's Office
Transportation Security Administration
(571) 227(b) (6) (office)
(b) (6) (cell)
(571) 227-1381 (fax)
HQ East 12-(b) (6) (office location)

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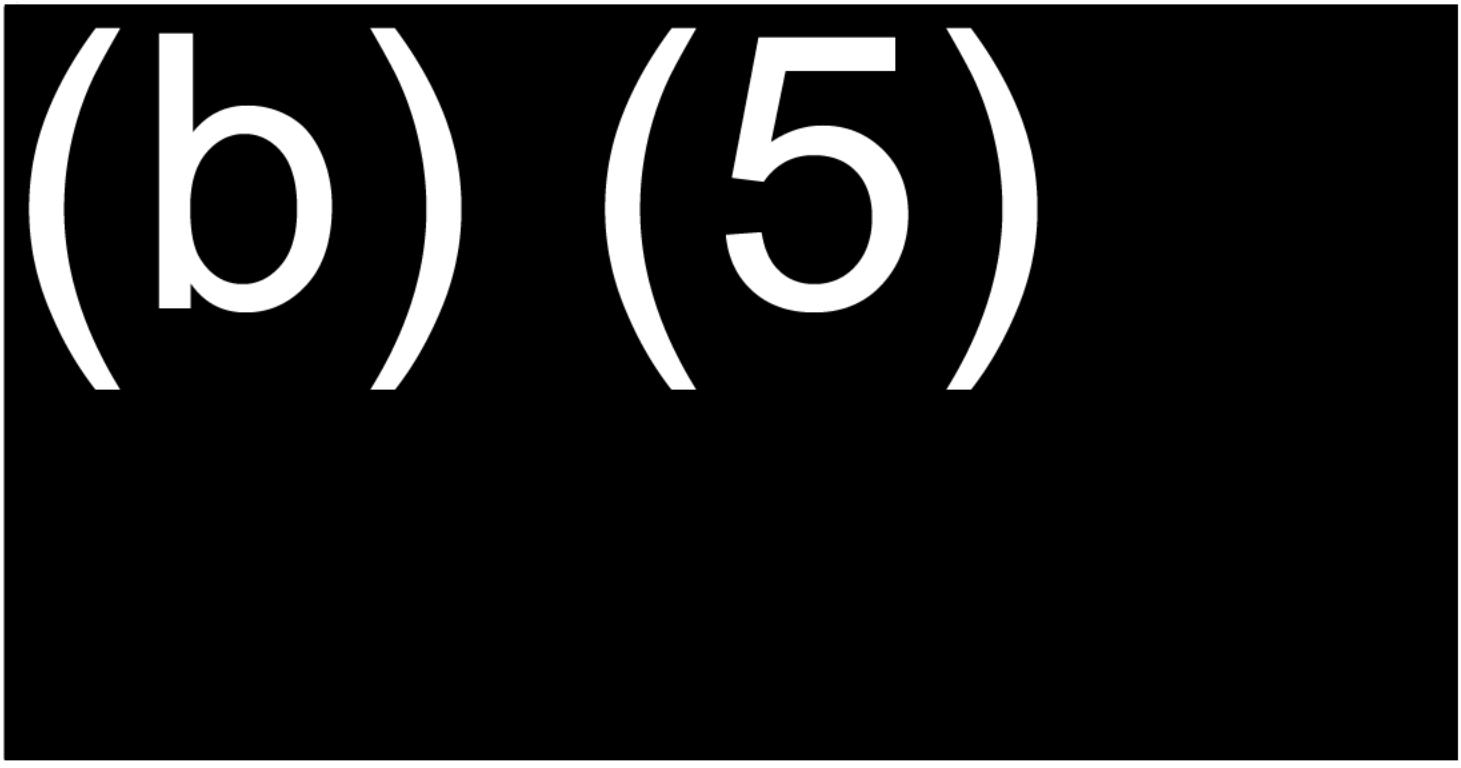
-----Original Message-----
From: (b) (6) <TSA OCC>
Sent: Thursday, March 20, 2008 1:15 PM
To: Book, Heather <TSA OCC>
Cc: Dean, Juanita <TSA OCC>; Newhouse, Victoria <TSA OCC>; (b) (6) <OCC>
Subject: RE: More responses to your whistleblower comment
Sensitivity: Confidential

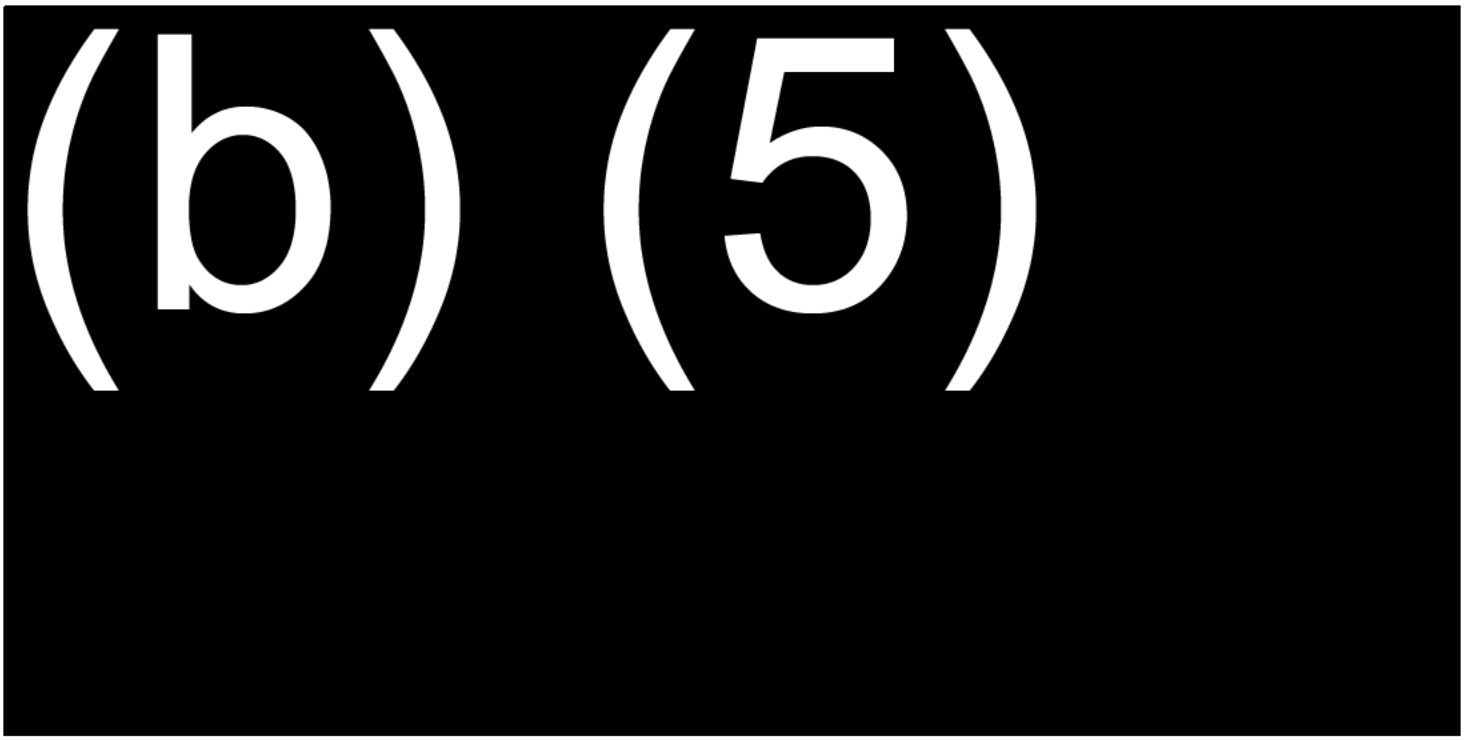
(b) (5)

-----Original Message-----
From: Book, Heather <TSA OCC>
Sent: Thursday, March 20, 2008 1:05 PM
To: (b) (6) <TSA OCC>; Dean, Juanita <TSA OCC>
Cc: (b) (6) <OCC>; Newhouse, Victoria <TSA OCC>
Subject: RE: More responses to your whistleblower comment
Sensitivity: Confidential

(b) (5)

Proposed response:







Heather Sigrist Book
Assistant Chief Counsel (Employment Litigation) Transportation Security Administration Office of Chief Counsel, TSA-2
601 South 12th Street, (b) (6)
Arlington, VA 22202
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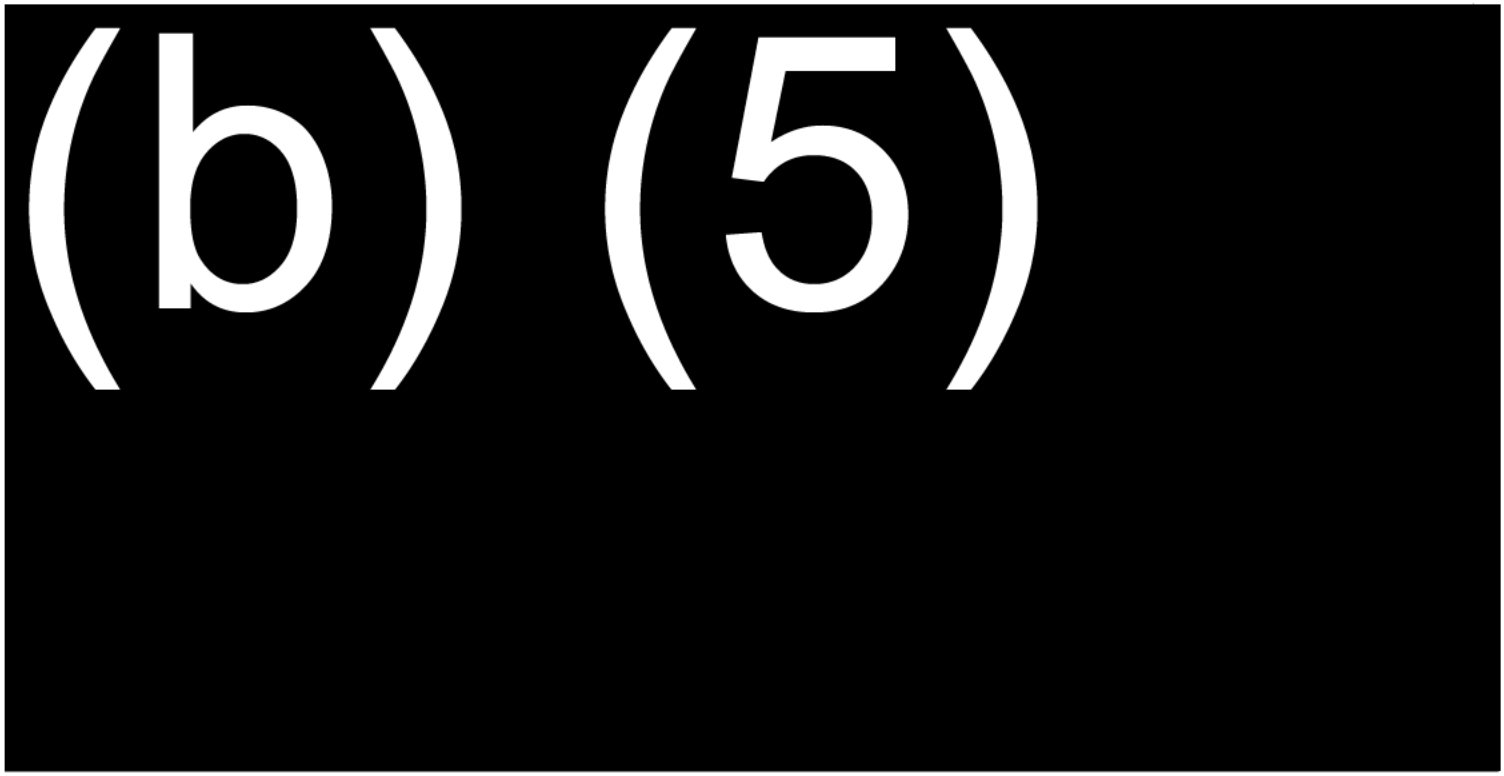
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-----Original Message-----
From: (b) (6) <TSA OCC>
Sent: Thursday, March 20, 2008 12:32 PM
To: Book, Heather <TSA OCC>; Dean, Juanita <TSA OCC>
Cc: (b) (6) <OCC>; Newhouse, Victoria <TSA OCC>
Subject: FW: More responses to your whistleblower comment
Importance: High
Sensitivity: Confidential

Sorry I was still working on it but it sent accidentally.
This is the final version below:

-----Original Message-----
From (b) (6) <TSA OCC>
Sent: Thursday, March 20, 2008 12:28 PM
To: Book, Heather <TSA OCC>; Dean, Juanita <TSA OCC>
Cc: (b) (6) <OCC>; Newhouse, Victoria <TSA OCC>
Subject: RE: More responses to your whistleblower comment
Importance: High
Sensitivity: Confidential

Heather & Juanita-
Here are my suggested changes to the second answer. (b) (5)



-----Original Message-----
From: Newhouse, Victoria <TSA OCC>
Sent: Thursday, March 20, 2008 11:10 AM
To: Book, Heather <TSA OCC>; Dean, Juanita <TSA OCC>
Cc: Ellison, Jennifer <TSA OCC>; (b) (6) <OCC>
Subject: Re: More responses to your whistleblower comment
Sensitivity: Confidential

Hi I am tied up in ethics training all day. I am including (b) (6) so she can review w/Juanita.

Copying (b) (6) for her awareness. Thanks.

Victoria

----- Original Message -----
From: Book, Heather <TSA OCC>
To: Newhouse, Victoria <TSA OCC>; Dean, Juanita <TSA OCC>
Sent: Thu Mar 20 11:05:08 2008
Subject: RE: More responses to your whistleblower comment

Victoria and Juanita,
Are either of you in the office today? Francine (b) (5) (see email traffic below). I addressed the fed court question and took a shot at the second question too since I was unable to locate you.
(b) (5)

Proposed response:

(b) (5)

(b) (5)

Heather Sigrist Book
Assistant Chief Counsel (Employment Litigation) Transportation Security Administration Office of Chief Counsel, TSA-2
601 South 12th Street, (b) (6)
Arlington, VA 22202
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From: Kerner, Francine
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Heather, could use your help on this. Will talk to you when I get into the office.

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From: (b) (6) <OCC>
To: Kerner, Francine
Sent: Thu Mar 20 09:19:45 2008
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Trollkiller said...

Thank you (b) (5) for posting Francine's reply.

Francine, I am glad you are enjoying my posts and I thank you for your replies.

I have a follow up question. When the law was written, was the ability for the TSOs to appeal to a federal court barred or just not included? In other words does the law say "TSA employees can not appeal to a federal court" or does the law say "TSA employees can appeal only by these methods" and thereby leaving out the court option.

Second follow up for you or anybody else in the home office.

What avenues do TSOs have to report abuse, gross mismanagement, or safety issues?

I thank you for your time, I know you must be one busy lady.

I look forward to your reply.

March 19, 2008 2:39 PM

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The law is 49 USC 114(n), extending to TSA from FAA 49 USC 40122(g).

March 19, 2008 3:42 PM

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TSA MD 2400.4 Employee Reports of Unsafe/Unhealthful Working Conditions

March 19, 2008 3:56 PM

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I see where 40122(h) says you have the right to contest a major adverse action by using either Guaranteed Fair Treatment or what is described in 40122 (g)(3).

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I even looked in TITLE 5 > PART III > Subpart A > CHAPTER 23 > § 2302. Prohibited personnel practices.
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Once again, thank you for the attempt.

March 20, 2008 4:24 AM

Trollkiller said...

Anonymous said...

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I want to support those people. I want my airports to be safe, and I want my rights protected. The only way to do that is to rid the TSA of bad TSOs.

(b) (6)

(b) (6)

Attorney

Office of Chief Counsel

Transportation Security Administration

Phone: (571) 227-(b) (6)

Cell: (b) (6)

Fax: (571) 227-1381

email: (b) (6)

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Plofker, Howard <TSA OCC>

From: (b) (6) <TSA OCC>
Sent: Friday, March 21, 2008 4:20 PM
To: Dean, Juanita <TSA OCC>; Book, Heather <TSA OCC>; (b) (6) <OCC>
Subject: blog response

Did you see trollkiller's response? Funny...

Francine:

Dang girl, when you give an answer you give an answer.

I will be honest I had to read it a couple of times, there is so much good information there. I will look up the references this weekend. Not because I don't trust you but because if you are going to take the time to reference the least I can do is read the them.

(b) (6)
Office of Chief Counsel
Transportation Security Administration
U.S. Department of Homeland Security
ph: 571-227-(b) (6)
fax: 571-227-1381
(b) (6)

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Plofker, Howard <TSA OCC>

From: (b) (6) <OCC>
Sent: Monday, March 24, 2008 10:28 AM
To: Kerner, Francine
Subject: RE:

Below is a comment that Trollkiller posted on the MacBook Air post:

Trollkiller said...

Anonymous said...

FROM THE "RUMOR ALERT" Topic:
Anonymous said (in response to Trollkiller: I don't understand why it would be difficult to explain the avenues TSOs have open to report abuse, gross mismanagement, or safety issues.)

It's not difficult. The process
for posting a Francine-quality response just takes time. Requests from the blog go from Public Affairs to the subject matter experts, who take time from their other work to research and draft a response, back to public affairs, to a busy Office of Chief Counsel to ensure the response is legally correct, (often) back through the pipes with changes, and then finally to the bloggers to publish. Remember that every TSA post (as opposed to ad hoc comment responses) are treated as statements of agency policy.

I am not a patient man, but you are right quality answers do take time. I will try to be a bit more patient in the future.

Francine did answer my question with a quality answer. Worth the read.

(b) (6)
Attorney
Office of Chief Counsel
Transportation Security Administration
Phone: (571) 227-(b) (6)
Cell: (b) (6)
Fax: (571) 227-1381
email: (b) (6)

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From: Kerner, Francine
Sent: Friday, March 21, 2008 5:44 PM
To: (b) (6) <OCC>
Subject:

Anonymous said...

I'd like to thank both Francine and Trollkiller for their efforts and furthering the dialog in a productive, positive way.

There is a post over in Gripes and Grins Part 2, a handicapped person that is at his wits end about abusive treatment. I'd like to see some light shed on that.

March 21, 2008 4:58 PM

Plofker, Howard <TSA OCC>

From: (b) (6) <OCC>
Sent: Tuesday, March 25, 2008 10:21 AM
To: (b) (6) TSA OCC>; Newhouse, Victoria <TSA OCC>
Subject: another one

Trollkiller said...

Anonymous said...

Why don't you stop dancing around the answer to the private company venture and simply admit the truth. The truth is this - TSA is going to do nothing about the Mike and Mo venture because it was TSA Chief Counsel who approved the request back when! Maybe not so smart in the long run but none the less, the truth:) Try it sometime.

If the Mike and Mo venture was cleared by TSA Chief Counsel, that would free them of any wrong doing in creation of the company. Unless there was some kind of impropriety by the Chief Counsel, Mike or Mo to get the blessing. Do you have any proof of that?

I still want to know who was the UK DHS person before Mike Restovich? This question has been waiting an answer since March 17th.

If it has been answered and I missed it, please repost it and point me to where it answered.

March 23, 2008 3:38 PM

(b) (6)
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Phone: (571) 227-(b) (6)
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Fax: (571) 227-1381
email (b) (6)

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Plofker, Howard <TSA OCC>

From: (b) (6) <OCC>
Sent: Monday, April 21, 2008 5:37 PM
To: Newhouse, Victoria <TSA OCC>
Cc: Johnson, Robert S <TSA OCC>; (b) (6) <TSA OCC>; (b) (6) <TSA OCC>
Subject: Review of Blog Comments on post re: MMW (posted 4/16/08)

Importance: High

(b) (6) and I have reviewed the 92 comments posted to the 4/17/08 post re: MMW for legal issues and we have noted the following:

(b) (5)

From (b) (6):

(b) (5)

(b) (6)
Attorney
Office of Chief Counsel
Transportation Security Administration

Phone: (571) 227-(b) (6)
Cell: (b) (6)
Fax: (571) 227-1381
email: (b) (6)

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Plofker, Howard <TSA OCC>

From: (b) (6) <OCC>
Sent: Thursday, May 15, 2008 9:12 AM
To: (b) (6) <TSA OCC>
Subject: Trollkiller's clarification

Trollkiller said...

Anonymous said...

What about people with different kinds of bodies (transgender, intersex, etc)? What are you doing to protect this vulnerable population from the ignorance of your agents?

Am I going to be having to explain to the TSA why I have no dick but look like a man? You want me to pull out my fake dick in front of everyone and put it on the belt? Or would you rather I left it in my pants and had the person behind the wall call me aside to explain why I had some object 'hidden' in my jockstrap.

Are my transgender sisters going to have to explain why they have a dick but are beautiful women? Do you want the women who've had breast cancer and lost their breasts in the process to pull out their falsies right there in line?

Don't you think I have enough to suffer through without having to explain my non-normative gender/body to someone who is carrying a weapon and thinks I'm a terrorist?

At least with a pat down I'm not getting a panty check, the person has to meet my eye and I can call for a supervisor if I feel like the situation is getting out of hand.

Well there you go, we can't offend the confused.

Let me help you out friend, if you have a penis you are a male. If you have a vagina you are a female. If by some sad chance you have both you are a hermaphrodite and can get the that cosmetically fixed.

I am sorry the whole world can not stop because of your psychological problems.

(b) (6)
Attorney
Office of Chief Counsel
Transportation Security Administration
Phone: (571) 227(b) (6)
Cell: (b) (6)
Fax: (571) 227-1381
email: (b) (6)

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(b) (6)

From: (b) (6) <OCC>
Sent: Wednesday, August 06, 2008 4:37 PM
To: Burns, Curtis
Subject: RE: Blog Question

Bob: I will look into it and get back to you. Thanks for letting me know.

From: Burns, Curtis
Sent: Wednesday, August 06, 2008 4:36 PM
To: (b) (6) <OCC>
Subject: Blog Question

(b) (5) Trollkiller (b) (5) is asking the following question:

Will someone at the TSA PLEASE, I am begging here,...Will someone at the TSA PLEASE, I am begging here, please reconcile the new forced ID verification with the following sections of 49 C.F.R. § 1540.5? Your original answer is lacking any reference to the definition of a sterile area, the main area of contention. (Trollkiller) 1:55 PM

I would really like help putting this issue to rest.

49 C.F.R. § 1540.5

[]

Sterile area means a portion of an airport defined in the airport security program that provides passengers access to boarding aircraft and ***to which the access generally is controlled by TSA****, or by an aircraft operator under part 1544 of this chapter or a foreign air carrier under part 1546 of this chapter,* ***through the screening of persons and property****.*

Screening function means the inspection of individuals and property for weapons, explosives, and incendiaries.

Publish **Reject**

(b) (5)

Thanks,

Curtis "Bob" Burns
TSA Office of Strategic Communications & Public Affairs
571-227-(b) (6) (O) (b) (6) (BB)
Got Feedback? / Evolution of Security Blog

Plofker, Howard <TSA OCC>

From: (b) (6) <OCC>
Sent: Wednesday, August 06, 2008 4:44 PM
To: Drennan, John <TSA OCC>
Cc: Newhouse, Victoria TSA OCC; Johnson, Robert S <TSA OCC>
Subject: FW: Blog Question

Please see below from the Blog team.

From: Burns, Curtis
Sent: Wednesday, August 06, 2008 4:36 PM
To: (b) (6) <OCC>
Subject: Blog Question

(b) (5) Trollkiller (b) (5) is asking the following question:

Will someone at the TSA PLEASE, I am begging here,...Will someone at the TSA PLEASE, I am begging here, please reconcile the new forced ID verification with the following sections of 49 C.F.R. § 1540.5? Your original answer is lacking any reference to the definition of a sterile area, the main area of contention. (Trollkiller) 1:55 PM

I would really like help putting this issue to rest.

49 C.F.R. § 1540.5

[]

Sterile area means a portion of an airport defined in the airport security program that provides passengers access to boarding aircraft and ***to which the access generally is controlled by TSA****, or by an aircraft operator under part 1544 of this chapter or a foreign air carrier under part 1546 of this chapter,* ***through the screening of persons and property****.*

Screening function means the inspection of individuals and property for weapons, explosives, and incendiaries.

Publish **Reject**

(b) (5)

Thanks,

Curtis "Bob" Burns
TSA Office of Strategic Communications & Public Affairs
571-227-(b) (6) (O) (b) (6) (BB)
Got Feedback? / *Evolution of Security Blog*

Plofker, Howard <TSA OCC>

From: Drennan, John <TSA OCC>
Sent: Wednesday, August 06, 2008 4:52 PM
To: (b) (6) <OCC>; Newhouse, Victoria <TSA OCC>; Johnson, Robert S <TSA OCC>
Subject: RE: Clarification please.

(b) (5)

-----Original Message-----
From: (b) (6) <OCC>
Sent: Wednesday, August 06, 2008 4:51 PM
To: Drennan, John <TSA OCC>; Newhouse, Victoria <TSA OCC>; Johnson, Robert S <TSA OCC>
Subject: RE: Clarification please.

(b) (5)
. Please let me know when Francine approves it and I will pass it on to the Blog team.

-----Original Message-----
From: Drennan, John <TSA OCC>
Sent: Wednesday, August 06, 2008 4:46 PM
To: (b) (6) <OCC>; Newhouse, Victoria <TSA OCC>; Johnson, Robert S <TSA OCC>
Subject: FW: Clarification please.

fyi

-----Original Message-----
From: Drennan, John <TSA OCC>
Sent: Wednesday, August 06, 2008 3:31 PM
To: Kerner, Francine; List-Counsel-Deputies
Subject: RE: Clarification please.

Not sure what he is getting at, but maybe we could say something like the following:

(b) (5)

-----Original Message-----
From: Kerner, Francine
Sent: Wednesday, August 06, 2008 3:05 PM

To: List-Counsel-Deputies
Subject: Fw: Clarification please.

----- Original Message -----
From: (b) (6) [redacted] >
To: Kerner, Francine <Francine.Kerner@dhs.gov>
Sent: Wed Aug 06 14:33:20 2008
Subject: Clarification please.

Dear Francine,

Thank you for the response to the blog's top ten questions. Unfortunately the response to the forced ID verification did not address the main issue. I blame this on the fact your office most likely received a very sanitized and generalized version of the question. In an effort to clear this issue I will ask the question.

In C.F.R. 49 § 1540.5 the definition of a sterile area clearly states the TSA generally controls access to the sterile area through screening. As far as I can see this does not allow for a forced ID verification, as a normal criterion for granting access to the sterile area, as it does not inspect for weapons, explosives and incendiaries. How does the TSA reconcile the forced ID verification with the definition of a sterile area?

C.F.R. 49 § 1540.5
Sterile area means a portion of an airport defined in the airport security program that provides passengers access to boarding aircraft and to which the access generally is controlled by TSA, or by an aircraft operator under part 1544 of this chapter or a foreign air carrier under part 1546 of this chapter, through the screening of persons and property.

C.F.R. 49 § 1540.5
Screening function means the inspection of individuals and property for weapons, explosives, and incendiaries.

I thank you in advance for your reply.

Sincerely
(b) (6) [redacted]

(b) (6) <OCC>

From: (b) (6) <OCC>
Sent: Thursday, March 13, 2008 8:45 AM
To: Plofker, Howard <TSA OCC>
Subject: RE: Civil Penalties Blog Post

Thanks (b) (5)

(b) (6)
Attorney
Office of Chief Counsel
Transportation Security Administration
Phone: (571) 227-(b) (6)
Cell: (b) (6)
Fax: (571) 227-1381
email: (b) (6)

Plofker, Howard <TSA OCC>

From: Plofker, Howard <TSA OCC>
Sent: Thursday, March 13, 2008 7:59 AM
To: (b) (6) <OCC>
Subject: RE: Civil Penalties Blog Post

Let me know if you want me to work on this.

Howard Plofker
Office of Chief Counsel
Transportation Security Administration
howard.plofker@dhs.gov
571-227-(b) (6)
(b) (6) (BlackBerry)
571-227-1382 (fax)
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FILE: 600.1

Is it worth a tree to print me?

From: (b) (6) <TSA OCC>
Sent: Wednesday, March 12, 2008 11:50 PM
To: (b) (6) <OCC>
Cc: Johnson, Robert S <TSA OCC>; (b) (6) <TSA OCC>'; Plofker, Howard <TSA OCC>; (b) (6) <TSA OCC>
Subject: RE: Civil Penalties Blog Post

(b) (6)

Attached are my proposed edits to the blog on civil penalties. (b) (5)

(b) (6) please take a look and see if I have mischaracterized anything about the NOV process.

Thanks
(b) (6)

From: (b) (6) <OCC>
Sent: Tue 3/11/2008 1:07 PM
To: (b) (6) <TSA OCC>
Cc: Johnson, Robert S <TSA OCC>; (b) (6) <TSA OCC>'; Plofker, Howard <TSA OCC>
Subject: Civil Penalties Blog Post

(b) (6) (b) (5) [redacted] FYI, "Trollkiller" is the name of the blogger that has brought the document discrepancy to our attention. In the blog world, when you type "@ trollkiller," it means you are directing your comment as a response to something that person has blogged about earlier. (You may already know this-but I've only recently been educated about these things!!)

Once I have your edits, I'll send this to Francine for her approval.

Thanks,

(b) (6) [redacted]
Attorney
Office of Chief Counsel
Transportation Security Administration
Phone: (571) 227-(b) (6)
Cell: (b) (6)
Fax: (571) 227-1381
email: (b) (6)

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(b) (6) <OCC>

From: Burns, Curtis Bob
Sent: Monday, February 02, 2009 9:35 AM
To: (b) (6) <OCC> b6
Subject: RE: Secure Flight Question

Yes. The code that Trollkiller is referring to is specific only to secure flight. It does not relate to checkpoint screening. He read too much into it. He's just an armchair attorney... ☺

Curtis "Bob" Burns TSA Social Media Guy
Office of Strategic Communications & Public Affairs
571-22(b) (6) (O) (b) (6) (BB) b7
My Profile / Evolution of Security Blog / Got Feedback? / EoS & Blogger Bob

From: (b) (6) <OCC>
Sent: Monday, February 02, 2009 9:32 AM
To: Burns, Curtis Bob
Subject: RE: Secure Flight Question

Did you get an answer?

(b) (6) b6
Attorney-Advisor, Information Law
Office of the Chief Counsel
Transportation Security Administration
601 S. 12th Street
Arlington, VA 22203
571-227(b) (6) (ofc.)
(b) (6) (cell) b2

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From: Burns, Curtis Bob
Sent: Monday, February 02, 2009 9:29 AM
To: (b) (6) <OCC> b6
Subject: RE: Secure Flight Question

Thanks. I was able to contact (b) (6) b6 (Secure Flight SME) I should have just called her in the first place, huh? ☺

Curtis "Bob" Burns TSA Social Media Guy
Office of Strategic Communications & Public Affairs
571-227(b) (6)O)(b) (6) (BB)
My Profile / Evolution of Security Blog / Got Feedback? / EoS & Blogger Bob

From: (b) (6) <OCC>
Sent: Monday, February 02, 2009 9:23 AM
To: Burns, Curtis Bob
Subject: Secure Flight Question

Bob:

Let me know if you need any help from OCC. (b) (6) and (b) (6) are both working on Secure Flight.

Thanks!

(b) (6)
Attorney-Advisor, Information Law
Office of the Chief Counsel
Transportation Security Administration
601 S. 12th Street
Arlington, VA 22203
571-227(b) (6)(ofc.)
(b) (6) (cell)

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(b) (6) <OCC>

From: (b) (6) <TSA OCC>
Sent: Thursday, March 20, 2008 10:36 AM
To: (b) (6) <OCC>
Subject: RE:

I guess some people really enjoy blogging.

From: (b) (6) <OCC>
Sent: Thursday, March 20, 2008 10:34 AM
To: (b) (6) <TSA OCC>
Subject:

More:

Anonymous said...

@Trollkiller:
I don't understand why it would be difficult to explain the avenues TSOs have open to report abuse, gross mismanagement, or safety issues.
It's not difficult. The process for posting a Francine-quality response just takes time. Requests from the blog go from Public Affairs to the subject matter experts, who take time from their other work to research and draft a response, back to public affairs, to a busy Office of Chief Counsel to ensure the response is legally correct, (often) back through the pipes with changes, and then finally to the bloggers to publish.
Remember that every TSA post (as opposed to ad hoc comment responses) are treated as statements of agency policy.

This goes back to an earlier comment about blog readers' expectations of when a TSA answer should come. If you look at the time from request to response as currency, you'll get what you paid for.

March 20, 2008 9:20 AM

Anonymous said...

@Trollkiller:
If (b) (6) *is any indication it would be 100+ days before I would receive it.*

Sure the FOIA process is backlogged, but that doesn't mean you shouldn't use it. Most responses go out relatively quickly. You can submit a FOIA here (the foia@dhs.gov address was wrong), BTW).

March 20, 2008 9:26 AM